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Phil Kearny: Greater Than Legend

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THE day was September 1, 1862.

The place was Chantilly, Virginia, 20 miles due west of Washington.

The time was murky twilight.

Off to the east, lightning still knifed the low-hanging clouds, but the rolls of thunder took so long to follow that soldiers knew the storm had shot its bolt. Rain continued to fall, but gently now, pattering down into giant puddles in the muddied cornfields. The sweet, clean, smell of a countryside after a summer storm bathed men in blue and men in grey in temporary peace. Both the agony of the battle that had preceded it and the violence of the savage thunderstorm seemed, for the moment, suspended in time.

Then, out of the gathering mist, Maj. General Phil Kearny rode.

He wore a heavy black india rubber cloak to protect his fine uniform. His sturdy brown horse, Bayard, looked black in the deepening darkness. Phil Kearny, who mocked fate, rode into the Virginia night to shake his fist once more at destiny.

This twilight Phil Kearny had but seconds to live, but, although men saw him ride out of his own lines, and one man in

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Confederate ranks pulled the trigger that made Kearny mortal, there remains no exact picture of his death. Most men can die, even in battle, and some certainly can be affixed to the circumstances. Not Phil Kearny; his death became shrouded in the murk which surrounded him on September 1, 1862.

One eyewitness, or at least one who *said* he was an eyewitness, wrote a letter home on September 4, 1862. That version, written by Major George P. Hawkes of the 21st Mass. Infantry, told of the episode in a manner never corroborated—or even hinted at —by other witnesses. It is suspect, yet it is part of a legend. It *could* be true.

Major Hawkes wrote home that he already had fallen into Confederate hands when Kearny rode out of the cornfield. Kearny shouted to Hawkes, "Captain, which troops are these?", almost at the moment he discovered that Confederate troops surrounded Hawkes. Hawkes wrote that he urged Kearny to surrender, but the general wheeled his horse around and began to flee. The Massachusetts officer remembered Kearny yelling, "They can't hit a barn!"

Then Confederate shots seared the gloom, and Kearny fell dead, proving the mockery of his words.

Much later, in 1882, Brig. General Walcott of the Union Army recollected seeing Kearny just before he met his fate. Walcott, a lieutenant on September 1, 1862, warned Kearny that Rebels lay ahead. Kearny rode on, apparently in uncontrollable rage at troops not obeying his peremptory orders to advance.

"General!" Walcott yelled, "We have two Georgia prisoners we've just captured there!"

Kearny turned, roared: "****** **** you and your prisoners." Walcott reconstructed the scene sixteen years later. He wrote, "Kearny forced his horse through the deep, sticky mud of the cornfield, past the left of the regiment. He passed within a few feet of where I was standing. I watched him moving in the murky twilight through the corn, and, when less than 20 yards away, saw his horse suddenly rear and turn. Half a dozen muskets flared around him. So died an intrepid soldier, Phil Kearny."

If men who saw him perish disagreed, some facts are clear.

Kearny entered his last second fleeing doom, searching for the charm that had carried him out of at least a half dozen like incidents. The charm eluded him this night. A bullet entered his body at the lower part of his spine, tore upward seeking the vibrancy of Phil Kearny—and finding it, shut it still forever.

A lifeless body fell into the mud, robbed of dignity, devoid of nobility. The crumpled form in the black india rubber cape bore no more resemblance to the flamboyant, brave Phil Kearny than a cold statistic bears to a flaming legend. There, in the mire of Chantilly, lay a living legend, so evanescent, so perishable, that after the wail and pomp of a funeral ceremony and a rash of letters from distinguished Northerners and Southerners alike, Kearny lay ignored.

Not truly ignored, perhaps.

Two men chose him as the subject for long, detailed biographies. One of the biographers was a cousin, the other a grandson. One, the cousin, John Watts DePeyster, wrote in 1869; the other, the grandson, Thomas Kearny, wrote in 1937. DePeyster filled in the blank spaces with so much of the history and grandeur of warfare since the beginning of time that it is difficult to tell, in reading him, whether Alexander the Great, Napoleon or Phil Kearny—or perhaps all three—died at Chantilly.

The grandson wrote a biography so worshipful that it is almost embarrassing for a non-relative to read it. When it is not embarrassing, then it is incomprehensible. Kearny the younger used more exclamation points per page than Shakespeare used in a lifetime.

Each in his own way, therefore, failed to *clarify* a life. Rather, both drew tighter the web of legend.

Somewhere, though, in the pages of DePeyster and Thomas Kearny, and in a stack of Phil Kearny's letters and effects at the New Jersey Historical Society, a good biography awaits the typewriter that will make the subject breathe. This life can be told straight—and it must soon be told, lest Phil Kearny escape forever into mythology.

Phil Kearny, you see, was not *really* a legend.

He was born, as are mortal men, on June 1, 1814 (or was it June 2, 1815, as some accounts say?). His mother was visiting

No. 3 Broadway, New York, at the time. The Kearnys spent considerable time in Newark, their home being located where the former Newark Teachers College building still stands on Broadway. If we can imagine that Philip Kearny was conceived in Newark—and we can—he quickly enough became a New Yorker. And so he remained until chance brought him back to New Jersey to stay 37 years later. "To stay" is an overstatement; Phil Kearny never really stayed anywhere.

First a boy had to grow toward manhood, and young Kearny did, but not spectacularly.

There was little of the soldier in the boy, although he was said to have slept under a picture of Napoleon Bonaparte. His thin frame, his gentle, proud manner and his shyness made him seem almost timid. His judgment impressed adults—until he sat astride a horse. Then he became reckless, foolish, called by some "a perfect horse killer."

Grandfather John Watts, who held the purse strings at No. 3 Broadway, offered Phil $1,500 for life if the young man would enter the ministry. Phil compromised, studied for the law at Columbia College instead. For $1,500 a year Grandfather Watts seemed to have conquered this "horse killer."

Grandfather made two mistakes fatal for any one who seeks to control his descendants. First, he wrote a will in which he settled nearly $1,000,000 on his would-be-lawyer grandson. Then Grandfather Watts made the greatest mistake of all: he died, on September 1, 1836, leaving Philip a millionaire at age 22. The law, never desirable, now wasn't necessary. Young Kearny had twenty-six years of life, less two days, to spend. He set out to spend it more recklessly than he squandered his fortune.

Quickly he became a soldier, joining the 1st U. S. Dragoons as a 2d lieutenant, and roaming off to the West to join uncle Stephen Watts Kearny. The Kearnys chased Indians for two years, until Phil went to France in 1839 to study cavalry tactics at the Royal School of Cavalry in Saumur, France. He arrived just in time to join the Duke of Orleans' expeditionary force raised for action in Algeria in October 1839.

Naturally Kearny performed brilliantly. The French sought to honor him with the French Legion of Honor, but Phil, as a

United States soldier, had to decline. He came home in 1840, and married Diana Bullit, of Kentucky social prominence, in 1841. The young Kearnys distinguished themselves for lavish parties in Washington, D. C., and at army outposts in Kansas, where the young lieutenant went to "awe the Indians." The handsome young couple distinguished themselves in some way, too, by bringing four children into the world in the first four years of their marriage.

The Mexican War gave men of war a chance to distinguish themselves. Imagine the fuming impatience of Capt. Phil Kearny when he found himself attached to headquarters. "Honors are not won at headquarters," he complained bitterly. Later, in August 1847, he declared, "I would give an arm for a brevet (promotion)."

Phil Kearny stepped forever out of routine military acceptance on August 20, 1847. That day he led a surging charge at Churubusco, a suburb of Mexico City. About 100 cavalrymen followed him across a causeway leading to the very gates of the city, but as the charge mounted in fury, a bugle to the rear sounded recall.

Support fell away. Only Kearny, two other officers and about twenty cavalrymen remained on the causeway. Kearny dismounted and slashed savagely with his sword until the Mexicans broke in confusion before this madman. Phil raced off the causeway on foot, found a riderless horse and dashed back toward his own lines. You can see him, proud, defiant, convinced of his immortality.

A spray of bullets followed him. One burst caught him, and suddenly his left arm hung shattered and useless by his side.

Later that day a surgeon removed the arm near the shoulder. As the stricken Kearny submitted to the knife, his head was held by Brig. General Franklin Pierce of New Hampshire—the same Franklin Pierce who became the 14th President of the United States in 1853.

Rare is the man who willingly loses an arm, but should such a man ever have existed, it had to be Phil Kearny on August 20, 1847. That day a pre-battle vow was fulfilled: Kearny lost an arm, received a battlefield promotion to major.

Restless years ensued. New York gave him a hero's welcome and a gold-handled sword in a silver scabbard. He found his estate, Belle Grove, in New Jersey—after looking unsuccessfully for a site on the Hudson River in New York state. Westward went the one-armed major in 1851 to fight the Rogue River Indians, claimed, by DePeyster, at least, to be the "most wicked, most warlike Indians on the continent." Phil resigned his commission in late 1851 and sailed around the world to an unexpected rendezvous in Paris.

Paris lionized the lean soldier with "le visage d 'un oiseau de proie," the face of an eagle. He took parties by storm, and in the spring of 1853, Miss Agnes Maxwell of New York saw him for the first time. Miss Maxwell, engaged to be married back home, was in Paris with her parents for a short visit. The 20-year-old New York beauty saw the 38-year-old Kearny, and so forceful was the impact that "she swooned immediately."

Kearny, who had the face of an eagle, also had the kind of mind that could forget a mate and four children in a nest back home. Romance blossomed, and soon Phil and Agnes, without benefit of clergy, lived tother in Paris as Monsieur and Madame Philippe Kearny. Legal wife Diana Bullit Kearny angrily refused a divorce.

Diana changed her mind in 1858, but kept one little kicker in the divorce decree. She insisted on his agreement that he would never remarry until her death. Kearny's lawyers pointed out that such a fine point applied only to New York State; Phil and Agnes Maxwell crossed the Hudson and became legally man and wife in Belle Grove on the banks of the Passaic in March 1858. Kearny had a legal second wife, a beautiful New Jersey estate. He stocked the castle with art treasures, personally supervised the lawns and grounds.

Art treasures? Lawns? Grounds? For a man like Phil Kearny? This is like asking a lion to lie down with the lambs. Even the birth of a son, Archie, in 1859 failed to make Belle Grove the place for a soldier to be happy. Off he sailed for France again, to volunteer for the campaign against Austria in 1859.

He fought with considerable distinction, earned the French

Legion of Honor—and, in accepting it, became the first American so honored.

The Kearnys gathered a brilliant company about their Paris apartment, and it became the rallying point for visiting United States military men. Often he entertained such officers as Beauregard, Robert E. Lee, the Johnstons, Stonewall Jackson and others of the Deep South. They argued the merits of North and South, of secession, of slavery. Kearny's sympathies and his smug sense of aristocracy undoubtedly linked him to the Confederacy.

The assault on Fort Sumter on April 12th galvanized him to action. Southern friends urged him to join their cause. He rejected them warmly:

"What am I, if no longer American!"

Phil Kearny hastened home to offer his services. Now began the mystery of a rejection and an ignoring that time has not clarified. Kearny hastened to Washington. Certainly the United States Army needed skilled leadership—and there was no officer with a greater awareness of military needs and tactics than Kearny. Yet his offer to serve was rejected. He hastened to his home state of New York, again to offer his services. Albany turned an even colder shoulder in his direction. He couldn't be an officer. Perhaps he could be a private, Kearny suggested. With one arm? Never, came the reply.

The rejection of Kearny might ever remain a mystery.

What possible reason could the national government and his native state have had for ignoring his talents? Political intrigue, certainly. Possibly the caste-conscious West Point crowd saw this outsider as a menace. Perhaps moral-minded voices whispered the scandal of Agnes Maxwell. Undoubtedly Kearny's brusque, even rude personality and his outspoken manner earned him enemies. Besides no one imagined the war would be difficult; Kearny's talents didn't seem needed.

Bull Run, on July 21, 1861, changed any Northern feelings about an easy war.

Frustrated, confused and bitter, Kearny accepted a New Jersey commission as brigadier general on July 25, 1861, and with it command of the 1st New Jersey Brigade. The next day he took command of the Jersey men near Alexandria, Virginia.

Kearny raged when he saw his troops, described as "straggling, in squads or individually, many with muskets decorated with bags of food." These ex-civilians knew little discipline, cared nothing for army life, found little leadership. Their thievery against civilians and other Army units alike attracted condemnation for miles around.

The general roared after hearing complaints of thefts for firewood: "The best way to capture Richmond would be to put a rail fence on the other side of it. Those 4th New Jersey thieves would charge through hell to get it!"

His soldiers, in turn, eyed Kearny with suspicion. His splendid horse, his bright cloak, his polished brass and glistening boots made him appear a dandy. Quickly they came to hate, then fear, and finally respect his uncompromising discipline, his attention to detail, his never-ending drills and marches. His tall, lithe figure seemed everywhere, and officers found his biting, often profane, tongue scolded them more than the enlisted men.

Phil Kearny, more than most generals, knew that war called for extreme discipline and splendid condition. His troops worked while others rested during the fall of 1861 and the winter of 1862.

Gen. George McClellan's inability and/or unwillingness to move irked Kearny, and the impolitic Jersey general poured out his bitterness in letters home: ". . . McClellan is too slow to maneuver out of a scrape . . . I deny him one spark of military genius." These letters, some soon published, did him no good among Army brass.

Kearny sweated and stewed as McClellan and the Washington politicians hestitated. Phil stopped his insistent demands only briefly during February 1862, when he went home to see his beloved son Archie, dying from typhoid fever.

Back in action, Kearny led a memorable dash against the Confederacy on March 11th, as the Rebels began to abandon the fortifictions they had held at Manassas since the previous July. Kearny's attack turned the withdrawal into a rout; even McClellan, when he rode up much later, wrote that the Southern departure was "very sudden." But McClellan significantly never mentioned Kearny, nor were Kearny's reports forwarded by McClellan's headquarters.

On March 17, 1862, Kearny wrote: "The stupid fact is that, not content with letting me and others push on after the panic-stricken enemy, fighting him a big battle and ending the war—for his panic promised us sure success—McClellan, so powerful with figures, but so weak with men, had brought us all back."

Naturally Kearny felt the time had come to pursue the enemy, even to the barricades of Richmond—and some military experts believe such a follow by McClellan's huge army would have ended the war within months. But Gen. McClellan refused to budge, and instead decided to withdraw his troops for the ineffectual Peninsular Campaign.

Kearny won glory on that Virginia peninsula southeast of Richmond, although he scorned the campaign as "an affair of rivers."

McClellan offered Kearny a divisional command in March, but Phil refused when he could not take his New Jersey brigade with him. However, on May 2nd he accepted command of the 3rd Division as the slow move up the peninsula continued. Asked if he wished aid in getting to know his new command, Kearny declined, with typical confidence:

"I can make my men follow me to hell!"

Three days later he made good the boast. Gen. (Fighting Joe) Hooker, nearly overwhelmed by a Confederate force at Williamsburg, sent to the rear for Kearny's division. Kearny told the messenger: "Tell Hooker I am coming!" and rallied his new command for a savage ride through the mud.

One-armed Phil rode furiously that day. His reins held in his teeth, he brandished his gold-handled sword in his right hand and leaped over fences and fallen logs in fearless manner. He rammed through the variety of other commands between him and Hooker, swearing, threatening, cajoling.

At one point on the way to the front, Kearny's outfit seemed about to bog down behind a stalled wagon train. Kearny forced his column through the struggling wagons, thundering at the teamsters to "set the torch to your god damned cowardly wagons!" Such things made *his* men love him, made others despise him.

He reached the front, performed brilliantly, and won full praise, including that of McClellan. That Williamsburg charge typified Kearny on the peninsula. Day after day he defied the enemy, often riding out between the lines to draw Confederate fire, and then dashing toward his troops shouting, "Now you know where they are, boys! Go get 'em!"

Twice he escaped ambush, riding desperately away from captors. He had "a beautiful bay colt shot from under me at Fair Oaks Swamp" and concluded: "Too many scamps are firing at me."

They were, indeed; Southern soldiers, in a mixture of wonderment and admiration, had taken to calling him "The One-Armed Devil."

Kearny's own soldiers spoke of their leader with a mingling of awe and respect. He, in turn, never failed to recognize his men—in dispatches to headquarters, in letters home, in orders to his troops. His messages to his men sparkle with the thread of praise; such lines as "the South is repeating our name tonight" or "our division made its name known today" are persistent in his writings. Of such things are loved commanders made.

This burning desire to have his troops fully appreciated led Kearny on July 4, 1862, to instruct every officer and enlisted man in his command to wear a distinctive mark of identification. He ordered every officer to wear a red diamond-shaped patch of cloth on the crown or left side of his cap and every enlisted man to display the same patch in front of the cap.

The "Fighting Division" (Kearny's name for his outfit) complied eagerly. For his part, Kearny even supplied the material for the patch—contributing his red field blanket to the cause. Thus, filled with pride in himself, his men and his abilities, Kearny devised the first divisional insignia. Today, of course, such insignia are standard parts of all American uniforms.

But divisional morale notwithstanding, the dreary Peninsula Campaign wore to an agonizing end.

McClellan withdrew from the peninsula early in July, his army shattered and torn; the "affair of the rivers" proved as much of a fiasco as Kearny had predicated. McClellan's reputa-

tion sagged. Kearny, ever ambitious, unquestionably entertained the notion of a higher command—possibly at McClellan's expense (although he never said so openly). McClellan made Kearny a major general on July 4th, but the second star didn't satisfy Phil.

Yet as McClellan's fortunes sank, time also had begun to run out for Phil Kearny. Late in August he moved across northern Virginia in the great push on Manassas for the second Battle of Bull Run under Gen. John Pope. On August 29th at Groveton, Kearny led his division in a wild charge on the Confederate left, causing one Rebel leader to write: "Kearny was pitiless."

Kearny performed even more notably on August 30th, the second day at Bull Run. Stonewall Jackson battered the Union troops that day, driving them back at nearly every point. Still, as dusk fell, a tiny remnant of Union troops fought on.

Out of the smoke of battle and despair of defeat rode Phil Kearny to face Union Gen. John Gibbon, who also refused to concede defeat. Kearny, visibly wild at the rout, yelled to Gibbon:

"Reno (Gen. Reno) is not stampeded. I am not stampeded. You are not stampeded. That is about all, sir; my God, that's about all!"

The South maintained pressure, and on September 1st sought to turn the right flank of the Union Army at Chantilly. Wild fighting broke out near the end of the day, almost at the moment that one of the most violent storms of the war—or any war—began. Rain poured down, filling men's boots, seeping through rain cloaks, soaking powder, liquefying the fields.

Kearny rode through the storm toward the fluid front. Perceiving a break in the line, he dashed forward to reconnoiter. Phil Kearny did his own scouting. He felt boundless confidence; hadn't he ridden out of traps at Churubusco, at Solferino and three times on the Peninsula?

On this night of Sept. 1, 1862, Phil Kearny's luck ended. His brilliant life ceased in a sodden cornfield near Chantilly, Virginia.

The next day Gen. Robert E. Lee personally sent Kearny's body back to Union lines under a flag of truce and an honor escort. Officers and men on both sides heard the news of Kearny's

death in astonishment—and Mrs. Agnes Maxwell Kearny, bereft now of both son Archie and lover Phil, waited for the body at Belle Grove.

They buried Phil Kearny with honors. The North's first great loss brought a flood of anguish, from South as well as North (and some suspected that the loudest wails came from those of the North who waited too long to recognize his genius).

Some historians say Kearny was about to get the command of the Army of the Potomac, with McClellan and Pope both discredited and Grant not yet acclaimed. That's possible (ambiguous orders written September 1st, the day of his death, can be construed as leading to such a command).

It mattered not. Phil Kearny was dead, and so vividly had he lived that he had begun to pass into legend even before he rode, shadowlike, into the thunderstorm at Chantilly. He died as he had lived, surrounded by thunder and lightning.

He was brave, vainglorious, swift, bold, self-centered, thoughtless, rash. He was profane, reckless, imaginative, quick to anger, quick to forgive. He was a leader, a man in the front lines. These are the things which make notable generals—and these are the things which annoy politicians during a man's life, or people who seek to assess another's life in retrospect.

Perhaps Phil Kearny would have made a poor friend, except for other generals. I don't know. I do know this: his men loved him—and they followed him, even, as he said, to Hell.

Kearny might well have been the most notable leader of the North had he lived. It took another like him—Ulysses S. Grant—to force the war to a grinding, savage end. I tend to think Grant lacked Kearny's dash, his vigor, his ability to communicate with those directly beneath him; both shared an awareness that war is won only by attacking.

Still, for me Philip Kearny was a perfect soldier, if there is such a thing. War is nothing for moralists or the sentimental or the timid. War is a vicious, horrid thing and it must be fought as such. War spills blood and it keeps on spilling blood until there is no more to spill. It ends quickly only if the killing is sharp and merciless. Against this philosophy, then, Phil Kearny was a great soldier.

Prelude To A Strike

JAY MICHAEL HOLLANDER

I always like to ramble by the Botany Mills,
To see the fresh arrivals as they come,
They're as happy as can be, in the country rich and free,
They never think of "home, sweet home."

"The Botany Mill Girls"—song popular in Passaic circa 1899[1]

Late in January, 1926, a group of workers were fired by the Botany Worsted Company in Passaic, New Jersey. These firings precipitated a bloody thirteen-month labor dispute which saw, at its height, 16,000 workers out on strike. The Passaic textile strike was the first major strike in the United States to be independently conducted by the Communist Party.[2] The strike was experimental in so far as the Communists were concerned, and the choice of the Passaic area was given careful consideration by them. Passaic's geographic location was of prime importance, but the most decisive factor of all was the belief that the workers in Passaic were ready to fight and needed only the men to lead them.[3] The object of this study is to examine the factors which created the explosive situation found by the Communists ideal for their purposes.

It was in 1899 that German woolens magnate Edward Stoehr first sent his son Max and a cadre of workers to the United States to establish a worsted mill which would supplement his immense Leipzig operation. The American tariff against German-made woolens was high, and a reduction was nowhere in sight.[4] Passaic, New Jersey, was chosen as the location for the new mill. There was ample room for possible expansion, the waters of the Passaic River were well adapted for the washing and dyeing of wool materials, and proximity to New York City

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[1]William W. Scott, *History of Passaic and Its Environs* (New York, 1922), I, 495.
[2]William Z. Foster, *From Bryan to Stalin* (n.p., 1947), 203.
[3]Albert Weisbord, *Passaic* (Chicago, 1926), 21-22.
[4]John T. Cunningham, *Made in New Jersey* (New Brunswick, 1953), 93.

was also a consideration.[5] For an original investment of $500,000, the thus-formed Botany Mills were, by 1924, earning a net yearly average of $3,160,000. This average represented about ninety-seven per cent of their capital, which had increased to $3,400,000.[6] In 1924, Botany Mills, Inc. and Garfield Worsted Mills, plus interests in two large German textile groups, joined together to form Botany Consolidated Mills, Inc. Costs of reorganization after the merger resulted in a drop in the average yearly earnings as 1926 approached.[7]

In 1900 Christian Bohnsen, a Dane trained in Germany, founded the Gera Mills and named it after the town of Gera, near Leipzig. A few years later Julius G. Forstmann of Augsburg found the Passaic area, nestled within the high walls of the McKinley tariff, to his liking.[8]

The German origin of the major Passaic mills strongly influenced the attitude of the workers toward their employers in the period following World War I. During the war the Alien Property Custodian took over the majority stock interests owned by Germans in Botany, Gera, New Jersey Worsted Spinning Co., and Passaic Worsted Spinning Co. The Custodian assumed management in these companies, placing his representatives on the board of directors. Garfield Worsted and Forstmann and Huffmann Co. were not taken over, although the latter was in question until Julius Forstmann was able to prove that he had become a naturalized citizen.[9]

There had been some minor labor squabbles in the Passaic textile mills prior to the twenties. In 1912 a strike of some four thousand workers was simultaneously organized by the Workers International Industrial Workers of the World. The strike was

[5]Scott, *History of Passaic*, I, 487.

[6]Henry T. Hunt, testimony given before the Committee on Education and Labor, *Proposed Investigation of Wages and Working Conditions in Certain Industries*, 69th Congress, 1st Session (May 26, 1926), 19.

[7]Stuart Chase, quoted by Mary Heaton Vorse, *The Passaic Textile Strike 1926-1927* (Passaic, 1927), 8.

[8]Cunningham, *Made in New Jersey*, 93.

[9]*Alien Property Custodian Report* (Washington, 1919), 128-129. During the course of the strike, anti-German sentiment ran high. Charged one public resolution: "These alien-owned mills are retaliating by . . . punishing American patriots . . . for the part they took in the suppression of Kaiserism in the late World War," quoted by Mary Heaton Vorse in *The Passaic Textile Strike 1926-1927* (Passaic, 1927), 62.

lost, and organization in the area soon disintegrated. From 1914 to 1918 a few feeble craft locals made their appearance.

In 1918 a local worker named Matthew Pluhar organized a loose, independent group which he eventually led out on strike. The settlement of the strike in 1919 was partially successful in that it established a forty-eight hour week for the mills. About 2500 of the workers joined the Amalgamated Textile Workers, but trouble soon arose over organization funds. In addition, the language barrier within the group was too difficult to overcome. In time, this organization also failed.[10]

By 1926 there were eight mills of various sizes in the Passaic area. These mills were Botany Worsted Co., Garfield Worsted Co., Forstmann and Huffmann Co., New Jersey Worsted Spinning Co., Gera Mills, Passaic Worsted Co., Dundee Textile Co., and United Piece Dye Works. Botany was the second largest worsted mill under one roof in the world, and the Passaic area was the second largest center in the country for the manufacturing of woolen yarns and dress goods.[11]

The economic condition of the Passaic area obviously depended, to a great part, on the economic condition of the woolen industry. As the decade of the twenties opened, a local historian was able to predict optimistically:

> Prosperity has certainly found an abiding place here, and while we still have our resident and commuter population, it is gradually but surely being overshadowed by our importance as a great industrial center . . . destined to become one of the most important in the State and the nation.[12]

By 1926, however, despite a sizeable 73 per cent tariff, the woolen industry, amidst a period of prosperity, was classified as a "sick industry."[13]

The failing condition of the woolen industry was attributed to many factors. The Secretary of the American Association of Woolen and Worsted Manufacturers blamed, among other things, overproduction, antiquated or inadequate machinery, out-

[10]Beulah Amidon, "An Old Fashioned Strike," *Survey*, April 1, 1926, p. 10.
[11]Agnes de Lima, "In Passaic," *New Republic*, March 17, 1926, p. 98.
[12]Scott, *History of Passaic*, I, 486.
[13]*New York Times*, July 4, 1926.

grown methods of production and distribution, and lack of co-ordination and cooperation.[14]

A less conventional but perhaps equally valid explanation was a change in women's fashions taking place at the time. Women were wearing silk dresses in the winter as well as summer; fur coats were replacing woolen coats, and knitted wool fabrics like jersey were replacing the woven fabrics previously in vogue.[15] Whatever the reasons may have been, the woolen industry as a whole was in poor condition, and the mills in the Passaic area were no exception. While the average weekly wage for all manufacturing industries was $32.54, the average for the woolen and worsted industry was $24.21.[16] The average wage of a Passaic textile worker was approximately $21 per week.[17]

What of the city of Passaic and its people? What were they like? Located in northeastern New Jersey, the city is cut in two by the Passaic River. In 1920 the population was 63,841 of whom 26,365 were foreign-born.[18] That is, approximately 41 per cent of the people living in Passaic in 1920 were foreign born. This foreign-born segment came primarily from four countries, namely Poland, Hungary, Russia and Italy.[19] The population in 1926 was estimated at 70,000 or more.[20]

Of greater social significance than the river which splits Passaic into two areas was the railroad track, which, running down the main street of the city, divided it into two worlds—the east side and the west side. In a situation common to American industrial towns, it was estimated that over 90 per cent of the population lived east of the tracks and 10 per cent on the west.[21] Separation of the mass of the population, largely foreign-born, from the

[14]*New York Times,* March 28, 1926.

[15]Amidon, *Survey,* April 1, 1926, p. 11.

[16]Bureau of Census, *Historical Statistics of the United States 1789-1945* (n.p., n.d.), 67, 70.

[17]No definite figures are available on this subject. I have used what I believe to be the most objective source available, Louis Stark in the *New York Times,* March 28, 1926. Other estimates run from approximately $18 to $24 per week, depending on the source. The significant comparison in this case is, however, the relation of the entire depressed textile industry to the general prosperity in most other fields, rather than Passaic alone as compared to other textile mills.

[18]Bureau of Census, *Census of 1920* (Washington, 1922), III, 641, 652.

[19]*Census of 1920,* III, 652-653.

[20]"The Passaic Strike, A Study in Contemporary America," *Christian Century,* August 5, 1926, p. 964.

[21]Mary Heaton Vorse, *The Passaic Textile Strike 1926-1927* (Passaic, 1927), 6.

minority of the native-born was not conducive to understanding between the two groups.[22]

Earlier in the century Passaic had had the third highest illiteracy rate in the nation and an expert believed that things were still probably the same in the twenties.[23] The most significant factor leading to this low literacy rate was the almost complete failure of the foreign-born segment to assimilate. This failure was not without good reason. It was the practice of Passaic mill owners to send their agents down to Ellis Island in an effort to secure as many persons of foreign birth as possible to work in the mills.[24] These immigrants were not infrequently tagged with the words "Cheap Labor" as they landed, to make the job of the company agents that much easier. Not only were the mill owners careful to choose as many nationalities as possible in order to cut down communication among the workers, but, once these men were in the mills, every effort was made to prevent the growth of friendship and co-operation. This was accomplished by the infiltration of labor spies employed by the company into the ranks of the workers. The constant fear that *any one* might be a labor spy caused workers to be suspicious, not only of newcomers, but also of neighbors.[25] Workers in the United States for fifteen years could neither read nor write English. It was not until the textile strike was under way and strikers were forced into close contact with each other that many of them learned to speak English.[26] During the first days of the strike posters did not appeal to these people as unified workers or strikers, but instead they appealed to their native nationalities. "Poles, Hungarians, Italians, Russians, Ukrainians, Slavs—Strike!" read one of their placards.[27]

The labor spy system resulted in the first public shedding of unfavorable light on working conditions in Passaic. In 1920, Alice Barrows, regular investigator for the Department of the

[22]Alice Barrows (Bureau of Education) *The Problem of Adult Education in Passaic, New Jersey* (Washington, 1922), 6.

[23]Barrows, *Adult Education*, 7-10.

[24]Hunt, before Committee of Education and Labor, *Proposed Investigation*, 20.

[25]Justice Wise, "Principles and Realities in Passaic," *Independent*, July 10, 1926, p. 44, p. 55.

[26]Hollace Randell, *Prisoners of the Passaic Strike* (n.p., n.d.); Vorse, *Passaic Strike*, 118; Albert Weisbord, *Passaic* (Chicago, 1926), 43; Wise, "Principles and Realities," *Independent*, July 10, 1926, p. 55.

[27]*Passaic Daily News* (photograph), January 28, 1926.

Interior, in her report "The Problem of Adult Education in Passaic, New Jersey", denounced the spy system as one of the chief causes of the high illiteracy rate in Passaic.[28] While she was conducting her investigation, the secretary of the Passaic wool council sent a letter to the superintendent of schools which had been written by one of the spies. This letter accused Miss Barrows of being "a misguided zealot, of which we have too many in this country."[29] Some time later, Justine Wise, daughter of Rabbi Stephen Wise of New York, while working in the Passaic mills in order to conduct an investigation of conditions there, had her home entered and her books and papers gone over by a labor spy. The spy later went to Rabbi Wise and confessed, signing a written affidavit:[30]

> I know that each member of the Wool Council had detectives and spies in the mills who were charged with the duty of watching the employees and talking to them, and of reporting to the management any actions or language which might indicate the possibility of his causing trouble . . .
>
> *My instructions from my superiors were never to admit to any person that he had been blacklisted.*[31]

As indicated by this testimony it was the "Industrial Council of Passaic Wool Manufacturers," more familiarly known as the "wool council", which controlled the spy system and black list.[32] The wool council had been established, as World War I approached, as a central employment agency, ostensibly to allocate a limited pool of trained technicians to the mills where they were most needed. Eventually, the council handled all employment for the mills and also worked in unity on such matters as wage scale. Although blacklisting was denied by the council, it had become such a controversial issue that mills began to withdraw during the year before the strike, leading to the council's eventual collapse.[33]

Working conditions within the mills were far from favorable.

[28]Barrows, *Adult Education,* 22-23.

[29]"Passaic Strike," *Christian Century,* August 5, 1926, pp. 970-971.

[30]Stephen Wise, *Challenging Years, the Autobiography of Stephen Wise* (New York, 1949), 77.

[31]John Sherman of Garfield, N. J., in affidavit, April 23, 1926, quoted by Robert W. Dunn, *The Americanization of Labor* (New York, 1927), 91-93.

[32]Dunn, *Americanization of Labor,* 43.

[33]John J. Leary, Jr., "Passaic—An Example," *Industrial Digest,* July, 1926, p. 17.

With the exception of Forstmann and Huffmann (whose case will be considered below), such elementary accommodations as dressing rooms, lunch rooms, rest rooms, and even adequate washing facilities were nowhere to be found. Men and women were forced to eat and dress by their machines as well as they could manage.[34] Because of the low wages caused by the industry-wide depression, a single wage earner in the family was frequently not sufficient. New Jersey state laws forbidding night work for women were overlooked as wives and mothers attempted to increase the family pay check.[35] And bad as conditions in the mills might have been, conditions in the homes to which the workers returned were little, if any, better.[36]

Standing in contrast to the conditions at the other mills were the conditions at Forstmann and Huffmann. After the strike of 1918-1919, Julius Forstmann brought in expert Robert W. Reinhold to set up an employees' benefit plan. Among the benefits provided for workers were a low-charge nursery for mothers, a lunchroom for employees, two tennis courts, and a company basketball team. As an outgrowth of this plan a company union, or Representative Assembly developed. Julius Forstmann undoubtedly had the interests of his employees at heart, but his paternalistic attitude at times neared "enlightened despotism."[37] In addition, the Representative Assembly, which was supposed to be the worker's voice in his own affairs, fell far short of its stated aims. Representatives were chosen from factory "wards" and met four times a year with management. While trivial matters were discussed, it appears that the workers' real grievances were not considered.[38] As a worker who had served on the Assembly stated in an affidavit:

> I was elected a representative in 1923. I attended regularly the meetings of the Representative Assembly and I know of my own knowledge of cases where persons who had complaints to bring before the Representative Assembly were told that they would lose their positions if they did so.[39]

An attempt was made by Forstmann and Huffmann to further

[34]de Lima, "In Passaic," *New Republic,* March 17, 1926, pp. 98-99.
[35]Vorse, *Passaic Strike,* 4.
[36]de Lima, "In Passaic," p. 99.
[37]"Passaic Strikes," *Christian Century,* August 5, 1926, pp. 973-974.
[38]Dunn, *Americanization of Labor,* 142-143.
[39]Robert D. Dunn, *Company Unions* (New York, 1927), 53.

democratize the Assembly once the strike was well underway.[40] By this time, however, the workers at Forstmann and Huffmann had already walked out, in testimony to the effectiveness of the company union over the men it was supposed to benefit.

This was Passaic during the mid-twenties. The millworkers stood as living anachronisms. In a period of glowing property, their annual income was below the cost of living for the area.[41] When this fact was combined with the substandard conditions in all but one of the mills, the result was an insecure and resentful group of workers ready to react in some way. These were the circumstances and emotions which the Communists channeled into the thirteen-month ordeal which began in January, 1926.

Conditions in Passaic coincided with certain doctrinal changes going on within the American Communist Party. Passaic was seized upon as an experiment in overt labor organizing, at a time when Party dogma stressed "boring from within" organized labor. Realizing that the Passaic labor force was "ripe",[42] the appearance of an article in a New York newspaper, stating that Botany Mills contemplated a wage cut, triggered an elaborate plan of action which saw droves of Communist organizers sent into the Passaic area to take hold of the situation.[43]

Some eight months after the strike had begun, the Communist leadership, fearing the strike would be lost, turned over the reins to the A.F. of L.[44] The final settlement of the strike did nothing to improve wages or working conditions, and in less than two years the number of union workers dropped from 12,000 to less than one hundred.[45] However, as far as the Communists were concerned, their general success in industrial organization in Passaic led eventually to the abandonment of their policy of "boring from within" and the beginning of a new period of militant labor organizing.[46]

[40]*Passaic Daily News,* August 21, 1926.

[41]"Passaic Strike," *Christian Century,* August 5, 1926, p. 966.

[42]Weisbord, *Passaic,* 21-22.

[43]Benjamin Gitlow, *The Whole of Their Lives* (New York, 1948), 130-131; Benjamin Gitlow, *I Confess* (New York, 1939), 363-366; Vorse, *Passaic Textile Strike,* 11.

[44]Theodore Draper, *American Communism and Soviet Russia* (New York, 1960), 230.

[45]Robert W. Dunn and Jack Hardy, *Labor and Textiles* (New York, 1931), 223-224; Albert Weisbord, *The Conquest of Power* (New York, 1937) II, 1115.

[46]Foster, *Bryan to Stalin,* 209-211.

Jersey City: Early American Steel Center

JOSEPH P. TEMPLETON

While various places have been credited with being the birthplace of the steel industry in America, to Jersey City rightfully belongs the honor of being the first to manufacture quality steel as a regular item from American iron by American processes. For it was in Jersey City, in 1848, that Joseph Dixon, by his own processes, started production of high-grade American steel and this ultimately led to the disruption of the monopoly that English steel had then enjoyed for almost a century.

The romance of Jersey City as an early American steel center is inseparable from the story of the disappointments and hardships endured by those who originally pioneered the development of the iron ore deposits found in the Adirondack Mountains of New York State. In 1826, Archibald MacIntyre of Albany and Duncan MacMartin of Broadalbin, two stubborn and determined Scotchmen, were operating a small forge for making iron at North Elba on the headwaters of the Ausable River. Because their ore was of poor quality they were constantly searching for something better. While on a prospecting trip, MacMartin, MacIntyre's son John, and a friend David Henderson—who was later to become MacIntyre's son-in-law—fell in with a St. Francis Indian who showed them a piece of ore he had picked up near by. So encouragingly did he speak of the rich ledge in which it was found that they paid him $1.50 and a plug of tobacco to guide them to its location, which they

This Article, written by the Secretary of the Joseph Dixon Crucible Company, of Jersey City, is an outgrowth of the author's research into the inventions and discoveries of the founder of the company. The reader should perhaps be reminded that, although England did indeed occupy a dominant place in the manufacture of certain types of steel products before the advent of Joseph Dixon, the American industry was active in iron and steel production even in colonial days.

found to be in the bed of the Hudson River about half way between Lakes Sanford and Henderson, in the general region of Mt. Marcy, the highest mountain in New York State. Recognizing its value, and finding evidence of additional deposits in the vicinity, the party returned to headquarters and took immediate steps to acquire the land, meanwhile placing a watchful guard over the Indian so that he could not tell others of his discovery. The location was called "Adirondac," spelled without the "k."

Being men of influence and versed in public life, MacIntyre and MacMartin knew how to go about acquiring wild lands. Eventually they purchased 105,000 acres from the State of New York for 10¢ an acre, including Townships 45, 46, and 47 of Totten & Crossfield Purchase as well as a tract known as "the Gore" north of Township 45. Then they organized the Adirondac Iron Company, and for thirty years the village of Adirondac was the busiest spot in the New York wilderness. A half million dollars is reported to have been spent on the venture by 1854, although a much higher figure has been suggested, the company's capitalization of $1 million having been increased to $3 million in the meantime.

The isolation of the wild, rugged mountainous region imposed untold hardships on the adventurers, but transportation was their greatest problem. The wilderness had been little disturbed by man up to that time and there were no roads for moving in equipment and other necessities. Then after making their iron they had to haul it forty to fifty miles to Lake Champlain, where it could be floated by barge to the New York markets.

Operations were started in the new field in 1826 by building roads, then a forge, a building for separating ore, and a log house to accommodate the men. Iron was made by the primitive method of using a forge and charcoal for smelting the ore and settling the melted ore in the bottom of the forge-hearth into a loop; this was then removed, placed under a large shingling hammer and, after being shingled into another loop, reheated, placed under a smaller hammer and drawn into bar iron.

After early vicissitudes, including a cholera epidemic in 1832, MacMartin died and a new company was organized by MacIntyre, with David Henderson and Archibald Robertson of Philadelphia as associates. Finding their ore of good quality but their forging process too slow, they built a puddling furnace in 1837 and undertook to explore all methods by which the manufacture of bar iron could be improved.

David Henderson became general manager in 1838, and shortly thereafter a small blast furnace was built for operation by a water-driven compressor with wooden cylinders. The following year construction was started on a wooden frame railroad, to connect with the line then running between Glens Falls and Elizabethtown, N. Y. After three miles were built and it was found more advantageous to haul by horse and wagon to Lake Champlain, the railroad was abandoned as being too costly.

With a blast furnace available, Henderson began experimenting in the conversion of iron into steel by means of charcoal, hopeful of utilizing the large supply of timber in the vicinity. When his experiments proved fairly successful, he journeyed to England with the express purpose of consulting with some one familiar with the manufacture of steel. Going directly to the great Sheffield works, Henderson made his requirements known to one of their better foremen, a Mr. Pixley by name, who agreed to conduct further experiments with charcoal, a process with which he was not familiar. Greatly elated with his success in enlisting Pixley in his Adirondac venture, Henderson immediately returned to America to await word from him. Several months passed, when Pixley wrote Henderson that his experiments were successful, and on the strength of this the Adirondac Iron Company incorporated and arranged to establish a large steel and cutlery works several miles below their iron works. The new works were to be known as the Tahawus Steel and Cutlery Company, after Mt. Tahawus ("the Cloudsplitter"), later renamed Mt. Marcy after William Learned Marcy, the Governor of New York State.

First they built a costly dam across the Hudson River. This was to raise the water level in Lake Sanford so that they could float their iron by boat to the new works. Then they built all necessary barges and docks, a large sawmill and a boarding house. Meanwhile Pixley had arrived in America, and after visiting the Adirondac site and being satisfied with things there, he gave Henderson full plans for all buildings necessary for the successful manufacture of steel cutlery. Before sailing for England, he promised to return to America and manage the new steel works for Henderson. Some time later, Pixley wrote Henderson that after further experimenting he had reached the conclusion he could not make steel with charcoal and was abandoning the project. Notwithstanding the already sizeable investment, all work was stopped on the steel project; the iron company, however, continued to build and enlarge its facilities, until by 1844 it was producing 12 to 14 tons of pig iron daily.

After Pixley's failure to fulfill his promises to return to America, Henderson visited Jersey City where, earlier, he had been associated with Dudley Gregory in the manufacture of pottery. Here he talked to Joseph Dixon, chemist, inventor and metallurgist, who had successfully manufactured graphite crucibles since 1827, his continual testing of crucibles for quality improvement affording him a wide knowledge and experience in all metals then in general use. Dixon had experimented in the manufacture of steel as early as 1828, and had demonstrated his ability to make steel in 1839 by winning a medal at the Massachusetts Charitable Mechanic Association Exhibition by means of a large mirror consisting of polished steel plates, which a contemporary describes as "a perfect mirror, a curiosity and wonder of the day." That it was made by Dixon's own processes was attested to in a statement signed by Edward Everett, noted Massachusetts statesman and orator, and others.

Dixon began his experiments for Henderson in Jersey City by building a small crude cementing furnace in which he placed iron bars, leaving a place to extract a bar as the steel process progressed. He did this by building his furnace as high as the

length of the bars necessitated, and inside was a compartment filled with charcoal and good common bar iron so constructed that the heat completely surrounded it. Below was the fire which ignited the charcoal which, in turn, burning in the perpendicular trunk with the iron, cemented the bars into "blister steel," the charcoal carbonizing the iron. Successful in this, his next step was to build a furnace for melting the blister steel. He built his fire pit, readied his blast, broke up the blister steel and placed it in his graphite crucibles, made his moulds and poured his steel. All of this was successful except pouring the steel into flat moulds, for when he tested his metal he found it contained flaws and long seams. These he subsequently eliminated by pouring the steel into the moulds endwise, causing the air in the moulds to ascend as fast as they filled, a procedure that was later to become standard foundry practice. Having succeeded in casting steel into coarse bars, he then developed tilting hammers and other apparatus for working them into smaller bars. His process was a revelation, and the quality of his cast steel compared with the best made in England. Eventually Dixon patented his process in 1850 and followed with improvements in November 1858.

Unfortunately Henderson died September 3, 1845, shot accidentally by his own pistol while he was on a search for water power for the propulsion of his machinery. A monument marks the location of the fatal accident at Calamity Pond, in the heart of the Adirondacks. While he did not live to see the first pouring of Adirondac steel, and the decline of the venture stems from his death, the momentum which he initially imparted enabled it to carry on for a number of years, the period of 1848 to 1854 marking its greatest activity.

After Henderson's untimely death, MacIntyre and Robertson organized the Adirondac Steel Manufacturing Company of Jersey City, for the manufacture of steel, with Dudley and George Gregory and Estate of David Henderson as associates. Within a short time they were producing over a ton a day of finest steel "by processes of Joseph Dixon, Esq., who superintends this de-

partment of the business, the ore used from the Adirondack mines of Essex County, New York." By 1850 the Washington Navy Yard considered Jersey City steel the equal of, if not superior to, the very best English steel. As a matter of fact, the English themselves acknowledged its worth by awarding the Adirondac Company's product a gold medal at the London World's Fair of 1851. While the superior quality of Jersey City steel commanded large premiums in American markets, the excessive costs of the long wagon haul to Lake Champlain were to make it impossible to compete with Scotch pig iron, and by 1854 production had dwindled to little or nothing. In that year a proposed railroad run between Saratoga and Sackets Harbor on Lake Ontario, with a branch line to the Adirondac mine, gave new hope to the owners, and additional funds were made available for improvements including a new and larger furnace costing $43,000 with a yield of 14 tons a day. But work on the railroad did not start until 1865 and ended six years later at North Creek, 25 miles away, a severe blow to the enterprise. In the same year, floods destroyed the dam and other buildings at Tahawus, and the financial crisis of 1857, coupled with the deaths of MacIntyre and Robertson, destroyed the last hope for success of the Adirondac venture.

In April 1859 James R. Thompson was appointed agent to sell the Adirondac property. Robert Hunter was installed as caretaker "at a dollar a day," wrote the naturalist John Burroughs in *Wake Robin,* after visiting the property in 1863, "to live here and see that things were not wantonly destroyed but allowed to decay properly and decently." In 1863 the entire MacIntyre property was sold for $500,000, of which $25,000 was the down payment, but this was later forfeited when the sale was not consummated and the property was returned to its original owners.

In 1876 it entered a new phase with the lease of several ponds to the first hunting and fishing club to be established in the Adirondacks, and for the next 64 years it served as a game preserve and a source of timber only. In 1894 the MacIntyre Iron

Company, under the leadership of MacIntyre's grandson, James MacNaughton, took title to the property, continuing to lease to the now celebrated Adirondack Club, which later purchased 7,000 acres under the title Tahawus Purchase Inc.

Meanwhile, in 1853 the Jersey City steel works was leased for ten years to J. R. Thompson & Company, who continued making quality steel under that name until 1861, when it incorporated as the Jersey City Steel Company. In 1864 Gregory & Company took over the establishment, producing quality steel until the late 1870's, when "so much of the machinery as was modern and of any value was purchased by Spaulding Jennings & Company, organized in 1880, and adapted to their needs. Spaulding & Jennings in turn produced specialty crucible steel from 1880 to 1900 when, with others, they organized the present Crucible Steel Company of America.

The first mention that has been found of titanium in connection with Adirondac iron is in 1848, when its presence at times rendered the ore unworkable in the blast furnace. About 1870, a young French chemist, Dr. Auguste J. Rossi, arrived in America and became interested in titanium, especially as it occurred in iron ores. MacNaughton engaged his services, and about 1890 organized a company for experimenting in titaniferous ores, Dr. Rossi later taking out patents on a process for smelting such ores as well as for the manufacture of various titanium alloys. In 1906 Titanium Alloy Manufacturers Co. was incorporated for the production of ferro carbon titanium, an alloy used in the purification and scavenging of steel, one of the products resulting from Dr. Rossi's experiments. Their plant was located at Niagara Falls. Later Dr. Rossi succeeded in separating an impure titanium oxide, and in 1908, demonstrating the opacity of this material by mixing it with salad oil, he discovered its possibilities as a white pigment. This is additionally noteworthy for the reason that the oxide used was produced from Adirondack ore. Additional research on titanium as a pigment resulted in the formation of the Titanium Pigment Company in 1916, but restrictions in the use of power imposed by World War I

hampered their efforts and it was not until after the Armistice of 1918 was signed that production of commercial titanium pigment got under way. But even this was to have no beneficial effect on the slumbering Adirondack mines for many years, cheaper and more accessible sources of titanium having been found in the beach sands of India and to a lesser extent in Florida. When imports from India were shut off to the United States, however, at the outbreak of World War II, our Government's concern for protective coatings resulted in new surveys, and these disclosed that the MacIntyre Mine was the largest potential source of titanium in the United States. In 1941, 84 years after MacIntyre lost his race with other iron mines, National Lead Company acquired the MacIntyre and Tahawus Purchase properties and proceeded to develop them for the production of titanium at a cost of $8,000,000. Thus it was that the so-called impurity which at first thwarted attempts to develop the Adirondack iron deposits became the metal of first concern, while the initially important iron content of the ore was relegated to the lowly position of by-product.

David Henderson's untimely death was looked upon as a day of great calamity in the Adirondacks, for had he lived, that area might well have had a flourishing iron and steel industry. Both Henderson and MacIntyre were men of considerable means, and jointly and individually they engaged in many enterprises (one of them the operation of a lottery when it was legal to so so). Robertson, too, was a man of much wealth, having engaged extensively in mercantile business in Philadelphia. With no male heir among the partners to carry on the venture it was soon to fade into oblivion, and as early as 1860 "old Adirondac" became a ghost town.

Joseph Dixon was representative of an earlier America, when almost every village and town had some local genius who dreamed and tinkered and invented. Throughout his activity in steel he continued to produced graphite crucibles which, unlike earlier clay crucibles, could be used over and over again, considerably reducing costs. While best known, perhaps, for his

accomplishments in the mineral graphite, he being the first to prepare it for special uses and make it of a purity useful to the arts and manufacture, his discoveries and inventions were widely diversified, reaching into the fields of lead pencils, lubricants, optics, printing, lithography, photography, refractories, metal alloys, textiles, and tunnels, to mention a few. While the company he founded has grown and prospered for 133 years, certainly Dixon, with all the vividness of his remarkable imagination, never anticipated the extent to which the great steel industry of America would grow.

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Washington's Batsto Cypher

ARTHUR D. PIERCE

NEARLY a century ago a letter was sent to the New Jersey Historical Society by Thomas H. Richards, one of its members. That letter posed what Sherlock Holmes might have called "a three pipe problem." At the time Richards was active head of the Batsto Glass Works, in the South Jersey pines; but his letter concerned the earlier days of the Batsto Iron Works, industrial predecessor of the glass factories. That iron works, famous from pre-Revolutionary times, had closed down in 1848.

Richards' letter, addressed to the Corresponding Secretary of the Society, follows:

Batsto, May 28, 1864

Dear Sir:

I take the liberty of sending to you a rude and somewhat mutilated casting made at this place during or soon after the war of the revolution. An iron blast furnace was established here in 1762,[1] and was kept in continuous operation until 1846.[2] During the war of independence many cannon, mortars, shot and shell were cast, of which I have seen many rejected pieces, but of this casting neither my late father[3] nor any of the oldest residents of the place can give any explanation. It is probably intended to represent the coat of arms of General Washington, and is very similar in design to the escutcheon of the English Washington family represented in Lossing's Field Book of the Revolution. Shortly before the commencement of this civil war, Col. Lewis Washington was at this place, and upon seeing this casting took a seal ring from his finger upon which was engraved the same design with the exception of the cypher *(G. W.)*.

I have understood that it is a custom in monarchical countries of Europe to place the arms of the ruler, with his or her cypher on the walls of stores, hotels, and other public buildings, and having seen in the

THE WRITER, whose latest book, *Smugglers' Woods,* was reviewed in the October *Proceedings,* is a leading authority on South Jersey mineral resources and a member of the Editorial Advisory Board of this magazine.

[1]Correct date 1766.

[2]1848, according to Batsto records.

[3]Jesse Richards, son of William Richards.

Danish West Indies plates so placed, very similar to this, I have thought that this was intended for a similar purpose—to indicate the era in which some building was erected. Whatever may have been the design of the making of the casting, I send it to the New Jersey Historical Society, hoping it may interest its intelligent members.

Very respectfully,your obedient servant,
T. H. RICHARDS.

Wm. A. Whitehead, Esq.

This letter was not news when it first came to the author's attention about eight years ago. Several New Jersey historians had known of it, and all had tried in vain to locate the mysterious casting and discover an explanation of its purpose. The writer was assured that further effort would be a "wild goose chase."

A "wild goose chase" is better than no chase at all. So, despite the fact that searches at the Society's headquarters had drawn a blank each time, it was decided to try once more. Formal inquiry was made, indexes combed, records consulted, but no such chunk of iron could be found listed among the Society's possessions. That seemed to be that.

Some months later, the author visited Mount Vernon and inspected the interesting firebacks there, particularly one in the West Parlor. This fireback bore Washington's "crest and cypher", with an italic *"G.W."* A handbook disclosed that this was "one of four firebacks purchased in Philadelphia." A request to the Mount Vernon Ladies Association of the Union, which maintains the Washington shrine, brought the reply that the firebacks had been purchased from a Charles Pettit in Philadelphia. Reference to Fitzpatrick's *Writings of Washington* next yielded this fascinating correspondence:

To Charles Pettit
Philadelphia, Sept. 7, 1787

Sir: Having received the dimensions of three more of my Chimneys for which I want castings, I have to request them as follows [then follow the details of measurement].

The mould already made, may subserve for the above Castings reducing it first to the largest of the above chimneys, then to the second size, and lastly the smallest, the crest and Cypher to each.

I should be glad to receive them as soon as possible and the money shall be immediately paid for them.

On October 2, 1787, Washington sent Pettit "by the *Charming Polly* . . . . patterns for the hearths of Chimneys which I beg may be cast and sent to me by the first conveyance to Alexandria . . . . " And in a later letter, to Clement Biddle, Washington asks Biddle "to pay Mr. Charles Pettit's bill for 4 Backs and 8 Jambs sent to me, which amounts to 18 pounds, five shillings, one pence."

This, clearly, was pay dirt. Charles Pettit[4] not only was Philadelphia agent for the Batsto Iron Works at that time; he had long owned a substantial interest in that enterprise. It was inconceivable that Pettit would have had Washington's order executed at any iron works save Batsto, which then was managed and also partly owned by William Richards, founder of the South Jersey industrial dynasty.

It seemed time to make one last effort to locate that casting donated to the New Jersey Historical Society back in 1864. Now there was available not only a description of the firebacks and the crest and cypher at Mount Vernon (illustrated in the author's *Iron in the Pines*); but the photographic evidence and the description in the Richards letter were suspiciously similar.

Luck came at last. With those clues to go by, Howard Wiseman, of the Society's staff, made a search not only of the Society's index but of the shelves in the basement. Then he reported a piece of iron, partly broken, which did indeed bear the initials "G.W."

Illustrated here, that casting is beyond doubt the one from which the Mount Vernon firebacks were made. The design is identical, and either it is the mould mentioned in the letter from Washington to Pettit, or a replica, and almost surely the former. A precious possession, by any reckoning!

[4]Charles Pettit had been Secretary of the Province of New Jersey prior to the Revolution and split with Governor William Franklin to join the patriots. Later he became part owner of Batsto Iron Works, Deputy Quartermaster General under Nathanael Greene, and after the war an important financial figure in Philadelphia and one of the founders and first president of the Insurance Company of North America.

Iron casting made at Batsto during or soon after the American Revolution, possibly the cypher of George Washington with his family coat-of-arms. Gift of Thomas H. Richards. (See *Proceedings of the New Jersey Historical Society* Vol. X, p. 12.) *Photo-copy by Jean Lange from the original in the collections of the New Jersey Historical Society.*

Murder of Captain Turley and Mr. Vanderslice. Illustration from *Highwaymen and Pirates'* Own Book, compiled by Henry K. Brooke, Philadelphia, 1845.

Mary Turley's Honeymoon Voyage In 1838

As related by her father, the Reverend George Allen of Burlington With notes and comments by

PAUL W. KIESER

"IT appears to me that now is the proper time and place for me to bring into view for the use and information of all my family, some of the particulars of that most tragical scene which came over my afflicted daughter Mary after she was married and left her father's house." Thus wrote the Reverend George Allen, Baptist clergyman in Burlington, N. J., at the age of 83, in the year 1856.

The "tragical scene" was the harrowing experience which his daughter underwent on her honeymoon voyage with her stalwart sea-captain husband, Armel Turley; an experience such as few brides have ever been called upon to endure.

George Allen was born at New Mills (now Pemberton), Burlington County, New Jersey, on January 10, 1773. His father died in 1777 from disease brought on by exposure to cold and fatigue while serving as a soldier in the Revolutionary War. Before going into the ministry, Mr. Allen had his own tannery at Pemberton, was in business as a currier in Philadelphia, and had a tannery at Mt. Holly. From 1816 to 1828 he served as postmaster of Burlington and also gave service as a councilman and an alderman of that city. He was licensed to preach in 1825 and was minister of the Burlington Baptist Church for six years.

MR. KIESER, who is a resident of Toledo, Ohio, came upon the extraordinary story here related while visiting in Mount Holly, New Jersey. Apart from the intrinsic interest of its subject matter, the Allen manuscript is in itself a curious sample of autobiographical writing in New Jersey a century ago.

Later he moved to the vicinity of Lawrence and served the needy churches between Trenton and New Brunswick, taking in the Penn's Neck church. In 1843 he took a position as caretaker of the locks of the Delaware and Raritan Canal at Kingston and was also collector of the tolls. Here also he engaged in the business of growing and selling mulberry trees. In 1849 the family moved to a farm near Mt. Holly, where Mrs. Allen (Mary Ridg) died of the cholera on July 14th of that year.

Mary Allen, the subject of this article, was the ninth of ten children born to George and Mary Ridg Allen; she was the youngest of four daughters and she had six brothers.

"Perhaps I know more about this disastrous affair than Mary herself," continues Mr. Allen in the autobiographical sketch handed down to his children and by them to their descendants, "having obtained my information at the trial of the mutineers and from Captain Deal[1] and the second mate. It is admitted by all that know her case that there is not one person in a million that has seen the peril, danger and deep trouble which have come over her."

A copy of this manuscript was placed at the disposal of the writer by Mrs. William Oliver Topham and her sister, Mrs. Earl M. Seitz, great-great-granddaughters of the Reverend Mr. Allen, who reside in Mount Holly.

The story from this point on is reproduced as Mary's father wrote it, with occasional footnotes to make necessary corrections for the sake of accuracy, or to give other versions of incidents

[1]Minor inaccuracies in Mr. Allen's account may well be explained (1) by his writing the story of the mutiny almost two decades after it occurred; and (2) by the fact that he was not a trained writer on such events and he may have relied on memory and on hearing the evidence as it was given in the courtroom and in personal conversations. Hearing the name Diehl, he could easily have written it as he did, Deal. Mr. George N. Diehl of Philadelphia was the owner of the vessel. He may have been given the courtesy title of Captain, but he was not a nautical man and knew nothing about the handling of the brig or the longboat. Mr. Moir was the second mate. He, according to Mr. Diehl's account of the mutiny, written in a letter to his brother dated September 6, 1838, regained the deck after having been wounded by the mutineers and cast overboard, and found refuge in the cabin. Mr. Diehl does not say anything about Captain Turley finding his way back onto the vessel. (From letter written by Mr. Diehl to his brother, dated Liverpool, September 6, 1838.)

related, as considerable research into the mutiny story seemed to make necessary. And so he continues:

"She was married in Burlington on the 5th day of July, in the year 1838, to Captain Armel Turley and in one week after her marriage she sailed from Philadelphia with her husband on board the Brig Barganges,[2] of which brig Captain Turley was master, bound for Italy.[3] All went prosperously until the fatal night of the 5th of August: on the open sea and one day's sail of Gibralta, [*sic*], four men of the ship's crew turned mutineers.[4] They made an attack at night upon the officers of the ship.

"The first notice which the officers had of their wicked premeditated design was an attack on Mr. Vanderslice, the first mate. As he stood at the helm, steering the vessel, one of the mutineers, at the hour of midnight, stole his chance to get up behind him with a sharp axe in his hand. The first stroke took off his ear and nearly all one side of his face. The second stroke split the backbone. He fell mortally wounded.[5]

"The groans of the dying man alarmed the Captain and Mr. Deal who were sleeping in the cabin below. Captain Turley with haste rushed up on the deck to see what was the matter. He was met at the cabin door by four armed men who immediately seized him and a desperate struggle ensued. The Captain fought for his life. He was nearly a match for them all but they conquered him and threw him into the sea. For a time they supposed he was drowned but he swam close to the side of the

[2]The name of the vessel was the *Braganza.* She was a full-rigged brig of about 220 tons plying the European trade out of Philadelphia. (From news account of the mutiny appearing in the *American Daily Advertiser,* Philadelphia, September 26, 1838.)

[3]She sailed for Genoa with a cargo of sugar previously picked up in St. John's, Puerto Rico. *(ibid.)*

[4]The crew consisted of six men, including the cook. Five took part in the mutiny, but being unable to win the cook over to their cause, the mutineers locked him up in the forecastle. When the cabin prisoners were put to sea in the longboat, the cook was sent along with them. *(ibid.)*

[5]Mr. Vanderslice, though terribly wounded, found his way to the cabin, where he was tenderly cared for. The five prisoners in the cabin were: Mr. and Mrs. Diehl, Mary Turley, Mr. Vanderslice, and Mr. Moir. The mutineers positively refused to permit Mr. Vanderslice to be taken away in the longboat, saying they would attend to him themselves. *(ibid.)*

ship and caught hold of the main chains and there hung until he rested, watching a chance to get on deck. He made the attempt and succeeded in gaining the deck.[6] The mutineers saw him, then another desperate conflict and struggle took place. The Captain was unarmed. He called for help but there was none. He became mortally wounded, having a stab in his breast and both hands cut off. They plunged him into the sea to rise no more. He floated down into the wake of the ship so that those in the cabin could see him. He called to Mr. Deal and said: 'Take care of my wife and return her safe to her friends.' Then he said: 'God be merciful to me,' and sank to rise no more.

"The mutineers now had full possession of the ship. They were all foreigners and of the vilest character.[7] Their object was to get possession of the money. They supposed there was a large sum of money on board and that was the object of the whole movement. Captain Deal had the charge of all that. Before he left Philadelphia he had his money and bills of exchange so nicely secured in the lining of his hat that it was not discovered by the mutineers, though they had his hat in their hands to examine more than twenty times.[8] The ship's cargo was sugar and molasses. They made a thorough search of the vessel but did not find articles of much value that they could take away. They tried Captain Deal very hard and both by persuasion and threatening but he gave them no satisfaction.

"The mutineers became enraged and resolved to punish them to death. There were five persons in the cabin. These were as follows: Captain Deal and his wife, Mary Turley, the second mate and boy.[5] They began their punishment by putting canvas

[6]There is no evidence to be found that Captain Turley regained the deck after being cast overboard; it was Mr. Moir, the second mate, who had this experience. (Mr. Diehl's letter to his brother.)

[7]These were not pierhead loafers; they all seemed quiet, orderly sailors. (Irvin Anthony in *Revolt at Sea,* Putnam's, 1937.)

[8]Mr. Diehl does not mention concealing any money or bills of exchange in his hat lining. He does state that he gave up all valuables to the mutineers and that the survivors had "not a cent of money" when they landed in Greenock. (Mr. Diehl's letter.)

over the skylight. They shut up the cabin doors and windows to make it dark, so as to deprive them of both air and light. They offered them food and drink which were poisoned but they refused to taste it. The mutineers then made a smoke in the hold of the vessel. They burned old tarred rags and canvas which filled the cabin with a suffocating smoke, which would soon have taken their lives had it not been removed. Captain Deal offered them his gold watch and some other valuable articles if they would remove the smoke. They took the presents and removed the smoke, which gave unspeakable joy to the poor sufferers.

"They now had been full six days and nights in this gloomy cabin, expecting that each day would be their last. Their only living was a scant allowance of biscuits and wine, which fortunately they had in the cabin. Captain Deal proposed to the rebels that if they would give them the longboat he would leave the vessel and they might have the vessel and cargo, provided they would allow him and his company now in the cabin, without hindrance or molestation, to depart and leave the ship in the longboat. To this proposal they replied and said that he might have the jolly boat. Captain Deal told them that he would not go in her for she was old and leaky and would soon sink.

"After a day or two they concluded to let him have the longboat. 'But,' said they, 'you must all be searched before you go.' The day following the agreement was a pleasant day and the solemn procession had to move. They now had been full eight days and nights in this gloomy prison. The longboat was launched from the ship, the cabin doors were unloosened and set open. The mutineers stood on each side of the doors. Captain Deal was first called up on the deck. He came with his weapons of defense about him.[9] They were for disarming him, but he said: 'No, stand off, you do not touch my arms.' They then let him alone. Mrs. Deal was called on deck. She was searched and

[9]Mr. Diehl mentions that the prisoners in the cabin had "no means whatever of defense." *(ibid.)*

ordered to a seat. The second mate was called up. They took some of his clothes and let him pass. The boy came next.[10] He was ordered to stand by. Last of all came my poor daughter, Mary Turley. She was the object of their hate. They had designs against her life. As soon as she reached the deck one of the rebels raised a dirk over her back. Captain Deal saw it and with his sword[9] knocked the fellow's arm away, saying to him: 'If you murder one you shall murder us all.' He then in haste seized Mrs. Turley and placed her first in the boat and then the others as quick as possible. Having all safe on board the longboat Captain Deal shoved her off from the vessel.

"They were now without covering from the heat of the sun, the rains or dews, cast on the bosom of the great deep. They took a course directly from the vessel, fearing lest the enemy might follow them. We now have these poor sufferers in an open boat without water or provisions,[11] casting themselves for safety on the help and mercy of Almighty God. Their circumstances were enough to strike the stoutest heart with terror. The sea was calm and the weather fine, but they had to keep constantly bailing out water with their hands. Their only hope of safety was in God, that He would be pleased to send deliverance to them. They looked with intense anxiety for 28 hours, when they discovered a sail coming towards them. They made all the signals they could with raising oars and poles with flags on them.

"It is very remarkable that about that time the captain of the vessel then in sight should go up the mast head with his spy glass to look out. He discovered something in the sea which had a singular appearance, about the size of a bushel measure. He kept his eye upon it for some time. He came down and resolved to set his course directly towards it, which he did. It was not long before he was satisfied that it was a boat, and as he drew

[10]The fifth passenger in the longboat was the cook, who had refused to join in the mutiny and up to this time had been kept prisoner in the forecastle by the five mutineers. *(ibid.)*

[11]The longboat had sails, had food, had water. (Irving Anthony in *Revolt at Sea,* Putnam's, 1937.)

nearer he found that there were people on board, but when he came near and saw two women among them his bowels of compassion moved, and he said: 'Thank God, I will be your saviour.'

"He hastened to send men with his boat to help them on board his vessel, so by the help and goodness of the Lord, they were all saved from a watery grave, for they were scarcely on the vessel before a storm set in which lasted several days.

"From exposure and want of refreshments the women were almost dead. The vessel proved to be a Scotchman[12] bound for Greenock in Scotland, where they were all safely landed. The American Consul came to see them and provided for them comfortable accommodation while they remained in Greenock. The news of the disaster was carried in the newspapers all over part of England and Scotland and Captain Enoch Turley, brother of Armel, happened to be in Liverpool at the time. He read the account of the tragical affair in the public papers and drew the conclusion at once that it was his brother Armel's vessel. He immediately set out for Greenock to see them, but before he arrived they had taken passage on board of a steam boat for Liverpool. He returned to Liverpool and there he found them.

"Mary was overwhelmed with grief and sorrow. She was also sick and weak and wanted good care and nursing. Captain Enoch Turley took her to a friend of his of the name of Danks. They lived in the country. They gladly received her and treated her kindly. Mrs. Danks became like a mother to her. She made her as comfortable as possible. She walked with her in the garden and gave her a pleasant ride every day. She recovered her health and strength very rapidly while she was there,—only two or three weeks. She then had to cross the broad Atlantic Ocean for to reach the land of her nativity, under the care and charge of Captain Enoch Turley. She arrived in Philadelphia in

[12]The Brig *Hebden*, Captain William B. Fowler, of Scarboro, England, bound from Sicily to Greenock, Scotland. (Mr. Diehl's letter.)

the month of December, 1838, of the same year. She had been from home about five and a half months. On meeting with her sympathizing friends she was often very much exhausted, but on the whole she was supported in her trouble with wonder and admiration. Her child was born April 25, 1839. She called her name Anna E. D. Turley. Mary's health has greatly recovered, but she has never been as well as she was before.

"It is proper to say that of the four wicked men[13] who were the authors of the terrible deed here recorded, that two of them took their own lives, one was pardoned, and Will Helms, the leader of the group was hung in the city of New York."

[13]One named Harry cut his throat the first night in the Emden jail. Van Bruzzen and Wilhelms were sentenced to death, but Van Bruzzen committed suicide in jail before sentence could be executed. Wilhelms, the leader, was hanged on Gibbet Island. Knoodsen, tried separately and found guilty, was recommended to mercy on account of his youth and later was granted a reprieve by the President of the United States. The boy Jim turned state's evidence. The cook had not joined in the mutiny. (Irvin Anthony in *Revolt at Sea,* Putnam's, 1937.)

The Colts of Paterson

D. STANTON HAMMOND

Any one will tell you that the manufacturing city of Paterson, established in 1792 at and around the Totowa Falls of the Passaic River, was the brain child of the world-famous Alexander Hamilton. He joined with others like Elias Boudinot, William Duer, Elias and Jonathan Dayton, Abijah Hammond, Brockholst and Henry Livingston, Nicholas Low, John Pintard and Richard Stockton. All these men were highly placed and important citizens of the new states—lately British provinces—of New Jersey and New York. There were many other subscribers to the million dollars worth of stock of the newly incorporated Society for the Establishing of Useful Manufactures—S.U.M. The directors selected our Passaic River Falls as the most likely place for the successful operation of a manufactory, and with Major Charles Pierre L'Enfant, the subsequently selected S.U.M. engineer, planned a grandiose city layout. This centered on what was later Colt's Hill, where the Passaic County Court House now stands, with broad avenues radiating out for the accommodation of the city mills and homes of the 20,000 workers expected to be in the new city. Of course all this was only on paper in 1792; by 1796 the bubble had burst, Paterson's mills were closed, and but a few hundred of the expected thousands of population remained in the city.

This hasty preview gives a setting in which to picture the Colt Family. We are not so much interested here in a history of Paterson, or even of the S.U.M., as we are in the Colts and their capering.

When the Board of Directors of the S.U.M. fired Major L'Enfant for his grandiose paper plans for Paterson, he betook

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himself to President Washington and Congress, with the result that what would have been the city of Paterson, sitting on Colt's Hill, became the city of Washington, sitting on Capitol Hill, the focus of the civilized world today. With Major L'Enfant's departure, the directors of the S.U.M. brought in Peter Colt of Connecticut as superintendent-manager.

It seems truly remarkable that no one has written the biography of this great American. Perhaps because he lived so long in Paterson and died here in 1824, perhaps because Paterson and Passaic County have had few citizens who really preserved and wrote up their history, nothing in any event was done about the Colts.

Not long ago a Paterson resident, Mr. Lindley E. Eberstadt, very kindly donated a large collection of Colt family papers to the Passaic County Historical Society at the Lambert Castle Museum. Perusal of this material, which had lain boxed up in an upstate New York family's archives for nearly a hundred years, revealed much local history. Among these papers was a copy of a Colt family account, written in 1799 by no other than Peter Colt himself, with an addendum he wrote in 1818.

Furthermore, in his 79th year (in 1823), the year before his death, Peter wrote his last life story—"judging it not improper to leave to my children some memoranda of my occupations and various situations which have led to my and their present standing in society, not that I have anything to boast of in point of extraordinary intellect or worldly wisdom so-called; on the other hand, being the youngest of 10 children and left an orphan when a mere child, I owe my success in life to the blessings of God and the piety of both my father and mother, but more particularly of the latter, who being a woman of a well-formed body and strong though unlettered mind, (and who outlived my father several years) was the guide and moral instructor of my childhood and whose faith in the promises of God never forsook her. To this more than to my own plans and designs, I am indebted for what success I have met with, in passing thus far through a life of trouble and danger."

This touching introduction to his account of his family certainly reveals a remarkable man in Peter Colt. He then was standing on the brink of Jordan, looking across at the pearly gates, dismissing worldly pomp and success with a humility all too infrequent then—or now! In some ways he reminds one of Abraham Lincoln—big, strong, the doer of big things, but humble withal with a firm reliance on God and with praise for his mother. He was a man of the type that really made America.

Peter Colt's family was long in America before his arrival on the earthly scene, but his family account is somewhat hazy about their settling and movements. Colt's documents in his own hand are deposited now in the Rutgers University library. With these and other sources available, some new light can be thrown on the early days of the Colt family in America. Peter Colt's great-grandfather John Colt immigrated from the west of England about 1634, coming to Massachusetts, and then to Windsor, Connecticut, in 1637 or 1638. He had several sons who eventually scattered about Connecticut, some at East Hartford, some at Glastonbury (whose descendants moved to Sussex County, New Jersey), and notably the eldest son John, grandfather of Peter Colt. John moved down the Connecticut River and finally settled at Lyme, Connecticut—a lovely old town on Long Island Sound. He raised a family of sons—biblically named—John, Benjamin, Samuel, and more besides. The son Benjamin Colt gives us pause, for he provides the first romantic Colt interlude.

It seems a charming maiden named Miriam Harris also lived in Lyme after her family hegira from Saybrook, Connecticut, to Turk's Island in the West Indies, where her parents died, "leaving her an orphan at an early age. She managed to maintain herself by her needle work, being left without property." Nonetheless, on her return to Connecticut about 1730, she became quite a favorite in and about Lyme and young Benjamin Colt was duly smitten. His father, John Colt, viewed the set-up quite unfavorably: poor girl, no property. Dutifully Benjamin subsided for a while; but not being allowed to marry the girl of his choice, and not being able to give her up entirely and live in the same

place, he packed up what little he had, left home uninvited and turned up in Philadelphia.

Here an important selectman from Lyme, Connecticut, named Ely, found him on his travels. Ely took young Benjamin under his wing and sailed back with him to Lyme, promising to intervene with the adamant father. Good as his word, he reconciled the Colt family and won father John's consent, and dutiful Benjamin and the poor girl of his choice were happily married, going on to have ten sons and daughters before 1750.

Miriam waxed mighty in her pledges of love and devotion, but, widowed with ten children, she did not have sufficient farm property to sustain the family. So she had the older sons bound to a trade, and they learned to make scythes, axe-heads and pikes. (The family currents, thus set toward manufacturing, continued in the same course down the generations, turning latterly to guns and revolvers.) Her children's names reflect the family traditions: John, Joseph, Harris, Benjamin, James, Jabez and Peter. Her three girls married into prominent Connecticut families and left many descendants.

Peter Colt, her baby and youngest, born March 28, 1744, was intended for a learned profession as a clergyman. By dint of energetic economy and the help of his eldest brother he was able to enter and attend Yale College at New Haven. He took his degree as bachelor in September 1764, teaching school for four years thereafter at Elizabeth Town, New Jersey, to pay his debts. He then set up shop in New Haven as a trader from 1768 to 1775, thus being thrown into intimate business contact with men who were going to take active parts in the forthcoming American Revolution. Naturally Peter took part in these preparations and served on the New Haven Committee of Correspondence from May, 1774. He then, in May 1775, became Military Secretary to General Wooster in command of Connecticut militia. Colt's rank was Lieutenant-Colonel in the militia.

Historian William Nelson says that Peter Colt had a command in Aaron Burr's expedition to Canada (*Paterson & Environs,* I, 333). This would have occurred in December 1775, at a time

when Colt was winding up the business partnership of Captain How and himself, following Captain How's death at sea while returning from the West Indies. However, Colt himself says that he resigned his militia commission to do this, with General Wooster's approval. In actual fact, one of Colt's friends in New Haven, a Mr. James Lockwood, took Peter Colt's place, joined the Army as secretary to General Wooster, and went with him into Canada in the fall of that year. It is quite apparent that Colt's service in the Army was limited to the Commissary Department, which, while not as rugged as the combat service, afforded enough of the rough and ready experience associated with military service. Peter Colt refers to himself in his autobiography as:—"although of a slender and rather delicate form of body, I have passed through life with as little sickness and much less expense for medicine than any person of my acquaintance."

His success as a businessman in New Haven very naturally singled Peter Colt out as the logical man for appointment by the Continental Congress as Deputy Commissary General for the Eastern Department on August 9, 1777. This was a stupendous job for those primitive days. His territory covered all the United States east of the Hudson River, and he was called upon to furnish army necessaries in the face of inflation in the currency, primitive transportation and Tory opposition. While the Army often suffered, as at Valley Forge, Morristown and other encampments, the blame lies elsewhere than at the door of Peter Colt. In late 1780, he began providing for army necessaries rather as a contractor than as army agent, and he continued until peace was declared, honorably discharging public duties without amassing a private fortune.

His personal relationships had widened immeasurably during the war years, but he writes: "I sought other lodgings [in 1776], yet I found myself uncomfortable, my clothes never in order, frequently missing, no regular society as when in Capt. How's well regulated family, and although it was the 2nd year of a civil war [i.e. Revolutionary War], the termination of which could

not be known, I determined to establish a family of my own, and was fortunate enough to gain the friendship of the family and connections of Daniel Lyman, Esq. with whom I had been particularly acquainted during the whole of my residence at New Haven. The result was that his daughter, Sarah Lyman, agreed to receive me as her husband, friend and protector for the rest of her life. We were married in October of 1776 and went to housekeeping in December following. Our life has been a wandering one, yet the old adage notwithstanding (that a rolling stone gathers no moss) we have been so blessed that we have raised up a family of 6 children out of 9, with as much comfort and general good reputation for integrity and hospitality as our neighbors, who have remained stationary."

During the war years, this Colt family was almost continuously on the move. Mrs. Colt and her father longed to have the new little family stay in New Haven, but war duties prevented. When the British burned Danbury, Connecticut, the Colts moved home to Farmington, where their first child, John, was born in August 1777. This John survived but a few years. Then they moved to Wethersfield, Connecticut, and here were born Roswell L. Colt, on July 20, 1779, and Sarah Colt, on January 22, 1782. The next five children were born at Hartford, Connecticut. Of these, only John (father of E. Boudinot Colt), Catherine and Mary R. survived. Mary R. Colt married John C. Devereux, a merchant of Utica, N.Y., and is to be thanked as the preserver of these manuscripts of Colt family history. The correspondence between the Oneida County and the Paterson Colts is the major basis of this family history, opening up to historians many doors closed for a century or more. These letters, having no envelopes as of today, still carry the original postmaster's hand cancellations.

The youngest child of Peter and Sarah Colt was the only one born in Paterson. She was Julia Boudinot Colt, born January 24, 1797, the first filly of many Colts subsequently raised in Paterson. Sad to relate, within the following hundred years every vestige of the Colt name disappeared from Peter's beloved Paterson, except in connection with a trifling street (about 200 ft. long), the

Colt building thereon (not so well known), and Central High School's ball teams.

Getting back to Peter Colt's business career, we note that the end of the Revolutionary War found him widely engaged in business but not averse to political entanglements. He was elected State Treasurer of Connecticut from 1789 until his acceptance of the S.U.M. superintendency in 1793, when he resigned, skillfully steering the vacancy to a friend of his, Mr. Kingsbury (described by Colt's granddaughter Catherine Pennington in an interlined note as "The dear old Federalist!").

Colt visited the Paterson manufactory in February 1793. He returned to Hartford the next April intending to close out his business and obligations and to move his family to the new business abode. However baby Harriet, born in December 1792, sickened and died of smallpox in April; so the family move was delayed until December of 1793, when the first Colt menage was set up in Paterson, to continue with some breaks for nearly 100 years, through 4 generations.

The failure of the S.U.M. in June 1796 wound up Peter Colt's business connection with Paterson at that time, but his personal relations with Elias Boudinot, the S.U.M. governor, and George Scriba, the deputy governor, and other important directors and citizens turned out most helpfully. Offered the superintendency of the canals being built at Rome, New York, at the same wages he had received in Paterson, he accepted and moved his family to the new location.

While there Peter Colt invested heavily in farm property, owning up to 550 acres. There were three farmer families as his tenants thereon, but the work was arduous and not altogether to the liking of his sons. His eldest boy, Roswell Lyman Colt, was bound out by contract until 22 years of age to a New York shipping house and was thus already started on his brilliant financial career. This move of course left Peter with only the other son John to help in farm management. Probably Mrs. Colt and the girls preferred to get away from the wilderness. Be it as it may, Peter sold his New York lands, took in exchange 144 shares of

stock of the S.U.M. from his friend and S.U.M. director, George Scriba, and moved his family to New Jersey. They lived first in Newark, and then moved to Paterson in October 1810.

As part of the consideration from George Scriba was the old hotel built in Paterson by Scriba and Henderson, Peter Colt thought of immediate occupancy of this for his family. It was too large, however, and too much out of repair for such a purpose. Colt's son John undertook to build a house suitable for them to live in. Later this building, on what came to be named Colt Street, was operated as a hotel. When St. Paul's Church was razed to build Paterson's new City Hall in 1894-1896, the hotel was moved out to Graham Avenue in Paterson, where it still stands on a knoll some distance back from the curb line.

Peter Colt, on his final return to Paterson in 1810, was 66 years of age and more or less retired from active business. After the completion of the new home on July 4, 1813, he quickly turned over active affairs more or less to his up and coming son, Roswell L. Colt. From 1814 on Roswell became the spark plug of Paterson affairs. He married in 1810 Margaret Oliver, daughter of Robert Oliver, of Baltimore. The latter was one of the greatest merchants in America at the time, and this connection advanced Roswell immeasurably. Roswell's homes were in Baltimore, then New York City, and finally Paterson for about 40 years.

In the sunset of Peter Colt's life, he tried his hand at autobiography, writing at least three accounts (not verbatim copies) of his own life, the first in 1799, the second in 1818, and the last in 1823. His declining years were spent enjoyably in the Paterson home with his children and grandchildren. His end came on March 17, 1824, a few days short of his eightieth birthday. His wife Sarah Lyman Colt survived him by 20 years, passing on August 22, 1844, in her eighty-seventh year, leaving Roswell as the head of the Colt clan.

Roswell Lyman Colt was called by Historian Nelson "the greatest of the Colts." During the winter of 1928-29 a fairly warm public controversy occurred in Paterson over the razing of the so-called Pennington Mansion in Pennington Park along the

Paterson, New Jersey, in the mid-nineteenth century. *Photo-copy by Jean Lange from a woodcut in the collections of the New Jersey Historical Society.*

Passaic River. After some study, the full title story about this building came out and showed that Roswell L. Colt bought 112½ acres on Nov. 1, 1827, for $12,000, and built his mansion there. Then, as Historian Nelson says: "As the family increased to ten sons and daughters the question arose as to a proper home for all. Mr. Colt favored the small hill on Main Street, between Grand and Ward Streets, the same point which Major L'Enfant had looked upon as the proper central point for Paterson, from which streets and avenues were to radiate or circle." And Roswell carried out his plan over Mrs. Roswell Colt's strenuous objection. She preferred a mansion to be built on Garret Mountain and, failing to get her way, packed up her clothes and six of the ten children and sailed out and away to Europe. She based her division of the children on the relative size of Roswell's fortune and her own. Roswell went along with this caper, and on the failure of marital reconciliation, he continued to live in the Colt Hill Mansion with the four youngest children until his death in 1856. During his last forty years he was governor of the S.U.M., and at his death he was succeeded by his son Morgan G. Colt. Following Morgan in 1869 came Roswell's son-in-law De Grasse B. Fowler and then Roswell's nephew Elias Boudinot Colt from 1877 to 1895—the end of the Colt line in Paterson.

Before bringing this record to a close, it is imperative to cite Peter Colt's nephew Samuel, son of his brother Jabez, who had been bound out as a scythe and axe maker in his youth under their mother Miriam, as before mentioned. Samuel's interesting contribution to Colt history was in the manufacturing line. He invented the revolver, and in the Paterson Gun Mill, which is still standing, he manufactured the guns that changed the course of the world's military history.

As well, one should notice Peter Colt's daughter Sarah Colt, born in Connecticut in 1782. While living in Paterson in 1794, she organized what was probably the first Sunday School, as we now know them, to teach the children of the factory operatives of the S.U.M. to read and write. Quite an accomplishment for a girl in her thirteenth year.

Let us now view a real romance in the interchange of a short series of letters passing between Peter Colt's son John Colt, John's wife Eliza Pintard Boudinot and the suitor for their daughter's hand (Catherine Wadsworth Colt, born in 1815) and the young man concerned, Aaron Sanford Pennington, born in 1800. This touching interchange displays more intimately the lives of these people than anything else and affords an example of conduct the twentieth century might well copy.

First Letter:—

Monday Evening.

Mrs. Eliza P. Colt

Will Mrs. Colt pardon me for making her the medium of communication between your [crossed out] her daughter and myself? My attentions to your daughter you must have observed and may I hope you have not disapproved of them.

What her sentiments are I know not. Will you be good enough to let me know my fate as soon as possible. I await your answer with anxiety—

Yours respectfully
A.S. Pennington

Second Letter:—

A.S. Pennington, Esq.
Dear Sir,

I have recd yr letter with the one enclosed which I have handed to my daughter. the subject is one of too much importance to all parties [underlined] to be hastily decided upon. which I trust will be a sufficient excuse for yr not receiving a definative answer.

As to myself I think Cathr too young to marry and has not seen enough of the world—but her choice is left entirely to herself.

With sentiments of respect
and regard,
Yrs
Eliza P. Colt
Tuesday morning

It is regretted that the letter to Catherine seems lost. It is not in this file and so to the

Third Letter:—

N.York. Thursday
30th Oct. 34
[1834]

A.S. Pennington, Esq.
Paterson
My Dr Sir,

I have of course seen your communication to Catharine — the final answer is left to her own unbiased choice — yet as a parent tenderly alive to the happiness of his child, I cannot yield my consent without having some understanding with you on matters which concern her future comfort and happiness. I do not believe, my Dr Sir, that pecuniary considerations had anything to do with your proposals but it is proper that *I* think of these things for both of your sakes, should you be so happy as to gain the affections of my daughter. Let me ask you then what are your means and prospects of a comfortable support of a family — I do not mean in extravagance but Catharine has been brought up with much indulgence — all her little wants have been supplied — they will be very moderate at all times, but she is not calculated to strugle through life. She has not known care. Does your profession yield you a support and promise more so that you could keep house without encroaching upon any *capital* you may have? Are any members of your family dependent upon you or is it probable that they may hereafter form a part of your household? I have seen much unhappiness produced in this way. I have experienced it myself. There are a thousand little things that tend to make or mar domestic happiness and I cannot consent that Catharine should run the risk of loosing hers. Amiable as my own sisters are, I made a sad mistake in bringing my wife into my father's family — a seperate household is most desirable — Maiden Aunts on either side are *desireable* as visitors, not as permanent residents in a young married woman's family. Having thus frankly stated my views, founded on my own experience, I trust you will not think my enquiries unkind or unreasonable — and as to the *pecuniary* queries, it is due you to let you know my own situation, which I do in confidence.

I am heavily indebted and if I should be taken off shortly, my property might not, or at least not more than, pay my debts — but should my life be spared a few years and business continue as profitable as it has done for the last 4 or 5 yrs. I have reason to think that I should leave my family comfortable. From my father's estate my children could not have much — at least during the life of my sisters — there ought to be something handsome from Judge Boudinot's estate but unfortunately that estate is security for me for 10,000$ and if my property does not pay my debts, that

amt. would be chgd. to my wife's share there may eventually be from —— to —— [amount illegible] for each of my children at the decease of Mrs. Colt.

How your proposals may succeed, I do not exactly know but I thought it right to state to you candidly my views and to ask of you a frank answer. I shall be at home Friday afternoon also on Saturday — a letter was left at your office for you on Wednesday morning (yesterday)

Very truly yours
Jno. Colt

It is again regretted that Aaron Sanford Pennington's answering letter is not available and so we go on to the Fourth Letter:

A.S. Pennington, Esq. Paterson 1st Novr.
Paterson 1834

Dear Sir,

The communication you have made in answer to my letter is quite satisfactory. A competency is more desireable than riches — I have seen more happiness in the former than in the latter case, — it is all I desire for my children.

Integrity and industry in your profession will always ensure business, and these qualities I am sure you possess — and if you can win the affections of my daughter, you will receive our cordial approbation to a union with her for with Mrs. Colt you have always been a favorite, and I have always held your character in high estimation.

Yours very truly
Jno. Colt

Following this you will be interested to know that Catherine Colt and Aaron S. Pennington were married on January 14, 1835, shortly before her twentieth birthday, and they subsequently had five children. The first, John C. Pennington, was born in Paterson on November 10, 1835. Son Devereux was born in 1837, William in 1839, Aaron in 1842. Richard was the last son and there were no daughters.

The news traveled fast, sometimes, a century ago, and a gushing letter from Catherine's aunt, Mary R. Colt Devereux in Utica, New York, was received by the new "Mrs. A. S. Pennington of Paterson, Essex Co., N. Jersey dated 24 Jany. 1835." It enclosed something the aunt begged the niece to use "to purchase

some little article you may need in housekeeping to bring me often to your mind by adding a trifle to your comfort."

And now to close our story, let me give some touching excerpts from a letter of Catherine's to her husband Aaron, then on official duty at the state capitol in Trenton, New Jersey. This letter was addressed to Aaron S. Pennington, Esq., Trenton, New Jersey, with a beautiful cancellation from Paterson, N.J.—Jan. 31st—10 cents postage.

The letter is dated Tuesday evening, Jan. 30, 1838, and directed to "My dearest husband." She thanks him for his Sunday letter about his appointment as Speaker, but in her secret heart she "dreads it may keep you away from me". "I am so afraid you will become fond of your life in Trenton, so much excitement, so much variety, so different from the quiet of a country town in winter [Paterson!] that you will never be satisfied at home again. Johnny talks of you [2 yrs old!]—and the dear baby too improves so much, he is beginning to try to hold and catch things in his hands." And so on for two pages to the closing line: "goodbye, my own dear one, do remember me and love me, and come home if you can next Saturday. I shall be so happy to see you again

Yr most afft. wife
Catherine P. "

THE EDITOR'S DESK

OLD HATS AND DUST BINS

The astonishing speed with which, in this our age, present events become past history was brought forcibly to our attention the other day by a newspaper article. Mr. Ralph Chapman, writing in the *New York Herald Tribune* for June 8th, had occasion to describe the "Tower of Light" being planned for the New York World's Fair of 1964-1965. It will consist, he wrote, of twenty-four beams of one billion candlepower each, converging at a point in the sky so high that the column of light thus created will be visible as far as Boston and Washington. From this description it seems fair to infer that the Tower will brighten to some degree the horizon of the entire State of New Jersey.

This seemed to us wonder enough, but Mr. Chapman went on to quote Mr. Ernest R. Acker, chairman of the World's Fair committee of the Edison Electric Institute. Developments in the electric industry, said Mr. Acker, "come so fast that we cannot firm up our over-all exhibit plan until the last possible moment. What we view as exciting and futuristic in 1961 may be only comfortable old-hat in 1964."

* * *

Such forebodings may surely be classed as extreme. The future will indeed become obsolete in due course, but it should wait its turn and not offer itself to be mourned with such indecent haste. We have enough to concern us in the ravages wrought by time in the world that lies about us.

Consider, for example, the fate that has overtaken "Riverside," the fine old house of Bishop George Washington Doane at Burlington. A charming example of John Notman's architectural style, it stood for many generations in the vicinity of St. Mary's Church on the bank of the Delaware. There in his high-ceilinged and spacious library with a view through long windows of the gliding river the good Bishop pursued his labors. The memory of his life remains, some of his words, some of his hymns, even his portrait by Inman, reproduced in the *Proceedings* of last July. But the house in which he lived, the visible, tangible reminder of those once productive works and days, cannot be saved for want of funds and will soon be one more forgotten item in the dust bin of the past.

* * *

Not that dust bins can be unhesitantingly accepted as symbols of accumulated worthlessness. If a casting with the cypher "G. W." can turn up in the murk of the New Jersey Historical Society's cellars, as Mr. Pierce reports in this issue of our magazine, who can tell what the cellars of private houses may yield, what closets there may be to search, what alcoves to importune. An appreciation of the past may well begin in poking through the dust of the present, and we counsel our readers to be more curious about their dusty chunks of hardware than (until recently) the New Jersey Historical Society seems to have been.

THE MAILBOX

A Correction

To the Editor of the *Proceedings:*

In my article, "New Jersey Legislation Concerning Loyalists," in the April number of the *Proceedings,* there is a misprint which alters the meaning of the sentence in which it appears. On page 91, lines 5-7, the sentence should read: "Article 5 stated that Congress would recommend to the state legislatures that they provide for the *restitution* of the confiscated estates . . .," not the *restriction* of such estates as printed.

RUTH M. KEESEY

New York, N. Y.
May 24, 1961

Rebuttal from Bergen

To the Editor of the *Proceedings:*

I wish to protest the review of the Bergen County Historical Society's Round Table Papers, which appeared in the *Proceedings* for April 1961. Your reviewer was far off base in many of his comments. For example, in his statements about my "accusations" against Joseph Reed, I find it curious that he feels free to speak with such assurance about my inaccuracies—while indulging in so many of his own.

Item: "Mr. Owen accuses Reed of treasonable correspondence with his brother-in-law in England." "Treasonable" is *his* word. Mine were simply and solely these—"He was in correspondence with his highly placed brother-in-law in England, who had sought his influence in negotiating peace." Those words are fact. (Force, Series 5, Vol. 1, Col. 372.) What a novel approach—to embroider my statement for the sole purpose of making it refutable. Especially when the refutation involves still another inaccuracy:

Item: "Reed had been chosen by Congress to conduct negotiations with the British," says your reviewer. Not that I've been able to determine—not then or ever. Although his friend John Witherspoon did nominate him for the peace commission in 1781. Unsuccessfully.

In 1776 Reed's brother-in-law braced him *before* he met with the British, not afterward as your reviewer assumes. Reed was evidently picked by Washington, not Congress. A quibble on my part? Not at all. This action was precisely what De Berdt had suggested and as Washington's close friend (at the time), Reed easily arranged it.

Item: I stated that proofs had been given that Reed had lost hope of victory before Trenton changed his mind. In giving me the lie, your reviewer cites *one letter*—and naively gives as a source a laudatory biography written by the man's own grandson. The letter was actually an official report to Washington, and urged that some action be taken before it was too late. But even if it could be construed as enthusiastic support for the attack, it is beside the point.

Affidavits from Philemon Dickinson, John Nixon, William Bradford, Col. Joseph Ellis (who related pertinent conversations with Charles Pettit, Reed's New Jersey brother-in-law), Benjamin Rush and others all stated that Reed was ready to chicken out before Trenton braced his backbone. First-hand testimony is certainly to be considered proof.

Item: Your critic stated that there is no basis for saying Reed advised his brother to take a protection—other than the letter in the *Independent Gazetteer.*

But General John Cadwalader subsequently wrote Reed quite emphatically on the subject in a letter printed in "A reply to General Joseph Reed's Remarks," in 1783; reprinted in "Reed and Cadwalader Pamphlets," 1863. I quote: ". . . your brother . . . was then at Burlington with his family, and that you had advised him to remain there, and if the enemy took possession of the town to take a protection and swear allegiance . . ." In this, he was allegedly repeating Reed's own words. Certainly this is "declaratory" enough even for Mr. Lobdell.

Reed's attitude in this matter is also shown in a letter by Benjamin Rush, quoting him as saying that a defecting acquaintance ". . . had acted properly, and that a man who had a family did right to take that care of them."

Item: Regarding Reed's having, himself, applied for a protection, Mr. Lobdell states that ever since Stryker's pamphlet in 1867, "It has been known that the Colonel who did this was Charles Reed *(sic)* of New Jersey." Again, too abrupt a kiss-off.

The circumstances of Stryker's revelation were these: Bancroft, dealing with the old accusation in his "History," quoted a passage from Donop's diary—which mentioned Colonel Reed having taken a protection, and having argued with "General Mifflin" about it. Stryker discovered that this was Colonel Charles Read of New Jersey. And Bancroft, in his next edition, acknowledged that this was indeed "the Col. Reed referred to in this passage and the corresponding Donop German diary."

But neither historian did other than correct this one misquote. The basic question of Joseph Reed's having applied was not even touched on. Certainly his 1783 accusers were not referring to Donop's diary. And certainly brother Bowes Reed, Lt. Colonel of the New Jersey militia, was fully aware of the defection of Charles Read, Colonel of the New Jersey militia. Would not he or some other Reed supporter have come gleefully forward to set the record straight if the answer had been so simple? General Philemon Dickenson, also of the New Jersey militia, while one of the accusers, would surely have been aware of such an error and prevented it, lest it weaken the case.

Understand, this controversy is not something which latter-day historians have dug up or dreamed up. It was hot and heavy in 1783—when Revolutionary memories were bright and personal. The error of Bancroft was typical of what can happen in a reconstruction. But it certainly does not disprove the original indictment. It is a side issue.

It may be that the points I have made do not convince you. It is not necessary that they should. All that they are intended to do is show that I had adequate support for my remarks.

Your reviewer states: "In short, not one of Mr. Owen's charges is or can be substantiated." I submit that they can be and have been substantiated — whether or not they are or ever will be proved. And Mr. Lobdell could have determined for himself that there was substance to them.

Please understand that I am not writing this to protest the *fact* of criticism. Rather I object to the somewhat arrogant tone with which the entire work was treated—and to the specific inaccuracies touched on here.

No amount of researching can guarantee the complete elimination of error. I suppose, upon reflection, that this is as true of the critic's work as it is of the original—the difference being that the critic places himself in a far more exposed position. I recommend that reviewers keep this in mind—and impose upon themselves the same professionalism they demand of the author.

LEWIS F. OWEN

Oradell, N. J.
June 16, 1961

[We are happy to present both sides of this unexpectedly controversial question. It should always be remembered that opinions expressed in letters or signed articles published in this magazine are not necessarily shared by the editor.—Ed.]

OF BOOKS AND THINGS

BOOK REVIEW

The following review was written by a distinguished member of the New Jersey Historical Society, Judge Richard Hartshorne, whom we are proud to welcome as a contributor to the *Proceedings*.

Supreme Court of Judicature of the Province of New York 1691-1704. By Paul M. Hamlin, J.D., Ph.D. and Charles E. Baker. (New York, The New-York Historical Society, 1961. 3 vols., xliii, 1,386 pages.) This three volume work, totalling over 1,300 pages, constitutes an imposing, carefully prepared and well nigh encyclopaedic source book as to the legal institutions of the Colonial Province of New York. It is also truly a pioneer work. Further, since legal institutions deal with justice, the "firmest pillar of our Government," those truly interested in government in these United States must be informed as to the legal institutions of the provinces from which originated the states of the United States of America. Of course, to be properly understood, these legal institutions must be considered in the light of the social, economic and political situation in which they existed and of their effect upon the development of these various angles of life. In this regard it must be recalled that (1) some of the powers establishing these legal institutions in the case of the Province of New York came directly from the Crown; (2) at that time the number of citizens affected thereby, instead of as at present numbering many millions, numbered some 12,000. (3) In addition, these inhabitants were really frontiersmen, as the frontier of the Province, so far as inhabited, actually existed but a few miles west of the Atlantic coast. (4) Society was then in the raw, where piracy, buccaneering, and smuggling were the order of the day. It is intimated that the notorious pirate, Captain Kidd, at one time split his benefits with the then Governor, and it is known that he served as the foreman of a grand jury appointed to investigate piracy—a quaint situation indeed. The law and the legal institutions of the Province, now the State of New York, have developed gradually over the years from this crude background.

The Supreme Court of New York as its exists today sprang directly from the New England judiciary established by the short-

lived Dominion of New England Act of March 3, 1687, which provided for the Sessions Courts, Courts of Common Pleas, Chancery and a Superior Court. The model for the New York Supreme Court was the Dominion of New England Superior Court, which had been borrowed from the 1681 British West Indies Act of Jamaica, this latter act having been patterned after the English Superior Common Law Courts.

After the dissolution of the Dominion of New England, the New York Judiciary Acts of 1691 and 1692 set up a Supreme Court to sit in New York City, with *nisi prius* courts to sit in the various counties, to be held by one of the Supreme Court Justices travelling on circuit, these judges sitting together later *en banc* in New York City. Generally the provisions of the statutes of England were deemed applicable in New York, except where contraindicated by their terms, and with certain other major exceptions, such, for instance, as the much disputed applicability of the writ of habeas corpus.

This ancient New York Supreme Court dealt with all sorts of cases, from cavorting on the streets on the Sabbath to trials for murder and treason, and on the civil side from inconsequential complaints of nonpayment for small purchases to suits for the clarification of the legal title of thousands of acres of land. It dealt with riot, piracy, sedition, the supplying of liquor and arms to Indians and Negro slaves, and gave its opinion regarding patents, boundary encroachments, religious disputes, ferry rights, milling privileges, and problems of business without end. At times it was turned to for adjudication of matters ordinarily under the jurisdiction of other courts, such as the courts of Admiralty, Chancery, and even Probate, and many of the civil and criminal actions which came before it might as well have been taken, had the parties preferred it, to the Courts of Sessions or of Common Pleas.

Appeals from the Supreme Court lay to the Governor and Council in matters involving over 100 pounds sterling, and from that body, in matters involving over 300 pounds, to the King in Council.

Involvement of New Jersey

Not only is all this and much, much more set forth in these three authoritative volumes, but specific data is given as to the great effect which these New York legal institutions had on the similar institutions in the neighboring provinces of East and West Jersey. For instance, one of the early Chief Justices of the New York Supreme Court—Roger Mompesson, July 15, 1704-1715—also served as the first Chief Justice of the Supreme Court of the Province of New Jersey, 1704-1710. In addition, other prominent members of the New York bench and bar served on the New Jersey Supreme Court: Chief Justice David Jamison, 1710-1723, and

as Second Judge William Pinhorne, 1704-1708.

One of the reasons, at least, for this service by a New York Chief Justice as a Jersey Chief Justice was, of course, the fact that both provinces were under Royal control and, from 1702 to 1736, governed by the same Royal governors and, from 1702 to 1736, governed by the same Royal governors—Lord Cornbury, 1702-08, whose arbitrary acts made him less than popular in each province, then Governors Lovelace, 1708-09, Ingoldsby, 1709, Hunter, 1710-19, Burnett, 1720-28, Montgomery, 1728-31, and Cosby, 1732-36.

A further reason for this double jurisdiction was the difficulties created by the Crown itself. These difficulties were chiefly between the Monmouth Patentees and the other townsmen and settlers, who claimed title from the neighboring colony of New York, on the one hand, and the Lords Proprietors of East and West Jersey on the other. The origin of both these claims was identic—the grant, on March 12, 1663, by Charles II, of England, to his brother, James, Duke of York, of a charter for all the lands lying between the western side of the Connecticut River and the eastern side of the Delaware. The Duke, thereupon, sent out an expedition under Colonel, later Governor, Richard Nicolls, to whom the Duke delegated the power to grant lands. One of these grants of both land and the power of government was the Monmouth Patent.

However, unknown to Governor Nicolls, and previous to his grant of the Monmouth Patent, the same James, Duke of York, on June 23, 1664, carved out the Jerseys from his previous delegation of authority to Governor Nicolls, and granted both the title to the land and the full power of governing it to Lord John Berkeley, Baron of Stratton, and Sir George Carteret, both strong protagonists of Charles II. The description of the lands covered by this grant is interesting; from it we derive the name, New Jersey, so called after the island of Jersey, owned by Sir George Carteret.

The situation, thus, was that the very land covered by the Monmouth Patent had, previous to the Patent, been granted to Berkeley and Carteret by the very authority from which the Patent came; this, however, without notice to Governor Nicolls, who signed the Patent, or to the patentees themselves. Thus, and by the similar grant to the Elizabethtown patentees, arose the dispute over the right to the lands throughout the Jerseys, which kept the colony in an almost constant turmoil for practically half a century.

Legally it is, of course, clear that since the power of Governor Nicolls could rise no higher than its source — the Duke of York — and since such powers were not finally vested in Nicolls, but delegated to him as a subordinate agent, and "secretary" to the Duke, to exercise authority solely on behalf of the Duke in the New World, the

minute the Duke granted the governing authority and land titles to Berkeley and Carteret, not as mere subordinates to him, but as third and independent parties, in perpetuity, the Duke lost all legal power over the Jerseys, as did his subordinate, Governor Nicolls. Therefore, at the time Governor Nicolls issued the Monmouth Patent, he had no legal right to do so.

This superiority in the legal claim of the Lords Proprietors is made even more clear by the fact that the conquest of the Jerseys by the Dutch, subsequent to the grant of the Monmouth Patent, terminated both the Monmouth Patent and the grant to Berkeley and Carteret. Then when the treaty of peace was signed between Holland and England, at Breda, in 1667, and the Dutch ceded back this territory, as well as New York, to the English, the title again vested in the Crown. Thereafter the King made a confirmatory grant of the power over, and title to, this land to the Duke of York. And the Duke of York, in turn, made a confirmatory grant, July 28, 1674, of the Jerseys to Berkeley and Carteret, giving East Jersey to Carteret, West Jersey to Berkeley, thus cutting off any vestige of a strictly legal claim on behalf of the Monmouth patentees.

Finally, East Jersey was sold by Carteret's testamentary trustees and widow to the Lords Proprietors in England, February 1, 1681, for 3400 pounds sterling—less than $17,000, a sum indeed insignificant when compared with the present value of real estate in New Jersey far in excess of five billion, not million, dollars.

Thus a clear, complete land title, and governmental power in the Jerseys, was vested for a valuable consideration in the Lords Proprietors. On the other hand, it was, of course, quite inequitable for the Duke of York to withdraw his authority to issue patents from his subordinate, without notice either to such subordinate or to the third parties, who had, though subsequent to such withdrawal, made expenditures of toil, trouble, as well as moneys, in reliance on such grant. In short, while the legal governmental authority and land titles undoubtedly were vested, so far as East and West Jersey were concerned, in Berkeley and Carteret, and their successors the Lords Proprietors of East and West Jersey, an equitable right as against Berkeley and Carteret and their successors, to be secured, at least in their expenditures or land grants, existed in the Monmouth patentees, and in the other settlers perchance, including those in Elizabethtown, who derived their title through these grants from Governor Nicolls. Such, indeed, was the purport of the opinion of the eight distinguished English lawyers, including the Lord Chief Justice and the Solicitor General, to whom the question was submitted shortly after it arose.

Nevertheless, to our horny-fisted ancestors, who had wrested their lands by the sweat of their brows from the wilderness, these legal

theories were of little moment. They felt they had a grant of power from the ultimate source of authority—the Crown—in reliance upon which they had expended their labor and their moneys, if not their blood. And their British ancestry would not permit them to yield an inch.

Accordingly, even before the Lords Proprietors had organized their governing authority in this country, the "General Assembly of the Patentees and Deputies for Monmouth" met at Portland Point, in June 1667, thus constituting the first representative, as distinguished from town meeting, government of the English in New Jersey. This body, in fact, not only purported to make laws, but to be a court and a board of land proprietors as well. At its meetings, representatives of Shrewsbury and Middletown, as well as of the Navesink Highlands, continued to meet down to 1700.

Thus, not only were the courts New York and East Jersey under common control for a substantial period during their formative years, but since they were separated by the Hudson River only, we find a series of prominent New York attorneys actively practicing in the New Jersey courts, such as May Bickley (a man), James Emott, David Jamison, William Nicolls, John Pinhorne, Jacob Regnier; and in view of the importance of land titles, we find the records of these courts full to the brim with ejectment suits both in New York and New Jersey. In a long series of instances under the then quaint practice, these ejectment suits were often brought by New Jersey men and against New Jersey men who played the roles of nominal lessee plaintiffs against nominal casual ejector defendants. Small wonder is it then that not only the judges, the attorneys and many of the parties to the various litigations in both these provincial courts were identic, but that, in addition, the forms of procedure in such courts, such as the forms of oath, the court openings, the handling of juries, and grand juries, etc., were much the same.

Independence of New Jersey courts

In addition to the challenge to the jurisdiction of the New York courts in New Jersey in the case against one Richard Hartshorne hereinafter adverted to, in another case in 1678 an appeal was taken from a New York court's judgment claiming jurisdiction over New Jersey to the King in Council, which reversed that judgment in 1678. New Jersey's judicial independence was further established in 1680 by a jury verdict for Philip Carteret, Governor of East Jersey, and by an opinion of the British Attorney General in 1681. This independence was temporarily lost, but only for a year, in 1688, when both New Jersey and New York were annexed to the Dominion of New England under the Royal governorship of Sir Edmund Andros, but this independence was regained a year

later when the Dominion broke up through the revolt in Massachusetts and New York. This revolution resulted in the leadership in New York of Jacob Leisler, who re-established the courts of Oyer and Terminer, Admiralty, Exchequer, and for the trial of Small Causes. Leisler also included the principle of "no taxation without representation." But his regime had but a short span of life, his control being replaced by that of Governor Sloughter in 1691. Finally in 1702, the New Jersey Proprietors surrendered their governmental control to the Crown.

Grand Juries

As to the use of the grand jury, the history is most interesting and has resulted in the raising of many fine questions even down to the present time. Of course, the primary duty and privilege of a grand jury is to indict for crime. Under the Fifth Amendment to the United States Constitution, no one can be charged with a real Federal crime, as distinguished from a minor misdemeanor, except after indictment by a grand jury. Indeed, most of the states of the Union have similar provisions in their constitutions. Thus, since the grand jury is carefully selected from, and is representative of, the people as a whole, the people as a whole thereby largely control criminal proceedings in the United States.

In addition, state grand juries, but not Federal grand juries, generally, and with certain exceptions, can also make presentments or reports to the courts concerning the wrongful condition of public affairs which do not amount to a crime. Compare *United States vs. Smith,* 104 F. Supp. 283 (D.C.N.D.Cal. 1952) and *Application of United Electrical, etc.,* 111 F. Supp. 858 (D.C.S.D.N.Y. 1953) with *State of Florida ex rel. Brautigam vs. Interim Report of Grand Jury,* 93 So. 2d 99 (Fla. 1957). But in doing so, ordinarily individuals cannot be criticized. Compare *United Electrical, supra,* with *Camden County Grand Jury,* 10 N.J. 23 and *Appeal of Messano,* 16 N.J. 142. In some states grand juries can initiate investigations of that sort on their own account, while in others such investigations can be undertaken only at the instance of the state. Compare *State vs. Kemp,* 126 Conn. 60 (1939) with *Commonwealth vs. Hubbs,* 137 Pa. Super. 299 (1939) and *Petition of McNair,* 324 Pa. 48 (1936).

The New York Court of Appeals has apparently just changed the law in that state in the above regard by a 4-3 decision, filed February 23, 1961, in the case of *Woods vs. Hughes.* In this case the majority held that not the common law, but the constitution and laws of New York State, prevented a grand jury from filing a report criticizing the conduct of public affairs which did not amount to a crime. And this despite the citation of a series of similar reports filed in the past. The New York Court recognizes this to be contrary to the law in

New Jersey and certain other states.

Quite in line with the above divergence in details as to grand jury procedure, New York, while a province, had grand juries which both presented and indicted. Indeed, one of the most famous cases heard by the provincial courts of New York, that of Peter Paul Zenger, has often been called the "germ of the Revolution." In that case Zenger had published a criticism of certain governmental actions. The Province thereupon impaneled a grand jury and asked it to return an indictment. This the grand jury refused to do. They were again directed by the court to return this indictment, but again refused so to do, thus embodying not only the doctrine of the freedom of the press, but the right of the people to determine who should be prosecuted for crime, two of the most important principles causing the rebellion of the American colonists against the Crown.

It should be added, however, that after the final refusal of the grand jury to return an indictment against Zenger, the provincial officials succeeded in obtaining an information to be filed against him by the authorities themselves. In fact, at that time it was common practice to lay before a grand jury such matters as to which there was reason to suppose an indictment would be returned, but if an indictment by a grand jury was not anticipated, to have the proceedings started by an information filed by the authorities themselves. For instance, two months after Captain Kidd had been made the foreman of a grand jury to indict one Jacobs for piracy, and the grand jury had returned an *ignoramus,* the authorities brought a *qui tam* information against Jacobs, and where the New York residents along Long Island had persistently claimed drift whales, which were considered "royal fish," indictments were not sought, but informations were had against them.

Jury Qualifications and Juries

The following were exempted from jury duty: minors, women, slaves, aliens, persons without the minimum of property, this minimum consisting of a dwelling house free of encumbrances or a personal estate of more than fifty pounds. The exemptions covered some nine-tenths of the population.

The Supreme Court, which largely acted with a jury, and the Court of Admiralty, which largely acted without a jury, often took jurisdiction over the same sort of litigation, thus giving rise to many conflicts and other difficulties. Specifically, when the controversy involved a matter where the authorities anticipated a jury verdict favorable to them, they proceeded in the Supreme Court, but, were the case otherwise, they proceeded in admiralty. This general situation tempts the writer to advert to a writ of libel issued by the Admiralty Court of Provincial New York for the arrest of one Richard Hart-

shorne, then the Speaker of the Provincial House of Assembly of the Province of New Jersey, who was not only the holder, as purchaser, of one of the Monmouth patents, but brother of one of the Lords Proprietors of East Jersey. The reason for his arrest is unknown, but the outcome was, as might be expected, that the Jersey Assembly sagaciously refused to obey the writ, on the ground that the New York Admiralty Court lacked jurisdiction.

As previously indicated, while the Province of New York was governed by the Crown, the Province was changed on June 10, 1686, from a proprietary status to a Royal province, so that for some years thereafter the courts were created and filled by the judicial appointment of the Crown or the Royal Governor. Later, after the confusion caused by the adoption in turn of the Dongan system, the Dominion system and the Leisler adaptation of the Dongan system, the provincial inhabitants threatened rebellion and obtained the establishment of a provincial judiciary, not by the Crown, but through the newly elected House of Assembly in 1691, starting with a special message of Governor Sloughter in that regard on April 15, 1691. This thereafter continued to be regarded by the colonists as the legal source of the judiciary of the Province.

Of course, such matters as religious freedom arose for adjudication in the province, particularly in the prosecution of a Presbyterian minister, Francis Makemie, for preaching in the colony without a license. Makemie was acquitted through the able advocacy of one Jamison, later Chief Justice of New Jersey. After Jamison had become the New Jersey Chief Justice, a case came before him there raising the question of whether Quakers could "affirm" rather than "swear." He interpreted the law favorably to the Quakers. This ruling inflamed the community to such an extent that he was indicted, but when this indictment came before him, he caused the entire affair to be quashed.

All this gives merely a bird's-eye view of some of the important issues adjudicated by the Supreme Court of the Province of New York, according to the authoritative and carefully compiled data presented in the three volumes so ably prepared by Dr. Hamlin and Mr. Baker, the Editor of the New-York Historical Society. To these men, for their careful, long-continued work, the citizens of this country owe a deep debt of gratitude, in that there they have laid forth, in much greater detail than can here even be adverted to, the foundation and growth of the system of justice to the public, of which our citizens are now assured in the Federal Constitution and the constitutions of the various states of the Union.

—Richard Hartshorne, Judge, *United States District Court, District of New Jersey*

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